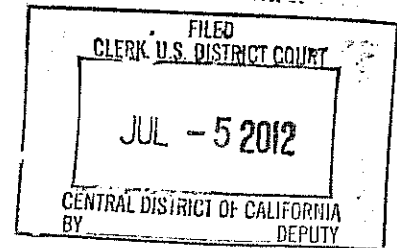


Michael J. Saltz, Esq. (SBN 189751)
msaltz@jrsflfp.com
Colby A. Petersen, Esq. (SBN 274387)
cpetersen@jrsflfp.com
Jacobson, Russell, Saltz & Fingerman, LLP
10866 Wilshire Blvd., Suite 1550
Los Angeles, California 90024
Telephone: (310) 446-9900
Facsimile: (310) 446-9909



Attorneys for Defendant

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

GABRIEL FELIX MORAN,
Plaintiff.

VS.

THE SCREENING PROS, LLC, a
California Corporation; DOES 1-10,
inclusive,

Defendants.

) CASE NO

CV 12-05808 SW (APX)

**) NOTICE OF REMOVAL OF ACTION
) UNDER 28 U.S.C. § 1331 (FEDERAL
) QUESTION); DEMAND FOR JURY
) TRIAL**

TO THE CLERK OF THE ABOVE-ENTITLED COURT:

PLEASE TAKE NOTICE THAT Defendant THE SCREENING PROS, LLC ("Defendant"), hereby removes to this Court the state court action described below.

1. On February 2, 2012, an action was commenced in the Superior Court of the State of California, City and County of Los Angeles, entitled GABRIEL FELIX MORAN, Plaintiff, vs. THE SCREENING PROS, LLC, Defendant as Case Number BC478220. A copy of the Summons is attached hereto as Exhibit "1".

COPY

1 2. The first date upon which Defendant received a copy of said Complaint
2 was on or about February 14, 2012, after Defendant was served by personal service
3 with a copy of said Complaint and a Summons from said state court. A copy of the
4 Complaint is attached hereto as Exhibit "2". A copy of the Proof of Service of the
5 Complaint on Defendant is attached hereto as Exhibit "3".

6 3. On March 15, 2012, Defendant responded to the Complaint with a
7 Demurrer to each cause of action. A copy of the Demurrer is attached hereto as Exhibit
8 "4".

9 4. On June 7, 2012, Plaintiff Moran ("Plaintiff") filed with the state court a
10 First Amended Complaint before the hearing on Defendant's Demurrer. In his First
11 Amended Complaint, Plaintiff included, for the first time, three causes of action under
12 the following Federal Statutes: USC §§ 1681(c), (e) and (i)(a). A copy of the Plaintiff's
13 First Amended Complaint is attached hereto as Exhibit "5".

14 5. According to the Proof of Service attached to the First Amended
15 Complaint, Defendant was served by mail with said First Amended Complaint on June
16 6, 2012. A response would therefore be due within thirty-five (35) days from the date
17 of service.

18 6. This is a civil action of which this Court has original jurisdiction under
19 28 U.S.C. § 1331, and is one which may be removed to this Court by Defendant
20 pursuant to the provisions of 28 U.S.C. § 1441(a) in that it is a civil action where
21 causes of action are claimed under Federal statutes.

22 7. When this action was originally filed, the grounds for removal based on
23 Federal question jurisdiction were not clear because the Complaint did not allege any
24 Federal causes of action. Federal question jurisdiction is now clear as on June 6, 2012,
25 Defendant's counsel was served by Plaintiff's counsel a First Amended Complaint that
26 included three new causes of action under 15 USC §§ 1681(c), (e) and (i)(a).

27 8. Removal to this district court is proper under 28 USC § 1441(a) because
28 the Los Angeles Superior Court is geographically located within this Court's district.

1 9. Defendant The Screening Pros, LLC hereby demands trial by jury in this
2 action.

3 **Jacobson, Russell, Saltz & Fingerman, LLP**

4
5 July 5, 2012

By: 

Michael J. Saltz, Esq.

Attorneys for Defendant, The Screening Pros, LLC

EXHIBIT “1”

SUM-100

SUMMONS (CITACION JUDICIAL)

NOTICE TO DEFENDANT: (AVISO AL DEMANDADO):

THE SCREENING PROS, LLC., a California corporation; and DOES
1-10 inclusive,

YOU ARE BEING SUED BY PLAINTIFF: (LO ESTÁ DEMANDANDO EL DEMANDANTE):

GABRIEL FELIX MORAN

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

FILED
Superior Court of California
County of Los Angeles

FEB 02 2012

John A. Clarke, Executive Officer/ Clerk
By M. Soto, Deputy
MOSES SOTO

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no pueda pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:

(El nombre y dirección de la corte es): Central - Stanley Mosk

Los Angeles County Superior Court - Central District (Stanley Mosk);

111 N. Hill St., Los Angeles, CA 90012

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Devin H. Fok (256599); Joshua E. Kim (257260); P.O. Box 875288, Los Angeles, CA 90087

CASE NUMBER:
(Número del Caso):

BC478220

DATE: FEB 02 2012
(Fecha)

John A. Clarke

Clerk, by
(Secretario)

M. Soto

MOSES SOTO

Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

NOTICE TO THE PERSON SERVED: You are served

- ☐ as an individual defendant.
- ☐ as the person sued under the fictitious name of (specify):

- ☒ on behalf of (specify):

- under:
- | | |
|------------------------------------------------------------------|---------------------------------------------------------|
| <input checked="" type="checkbox"/> CCP 416.10 (corporation) | <input type="checkbox"/> CCP 416.60 (minor) |
| <input type="checkbox"/> CCP 416.20 (defunct corporation) | <input type="checkbox"/> CCP 416.70 (conservatee) |
| <input type="checkbox"/> CCP 416.40 (association or partnership) | <input type="checkbox"/> CCP 416.90 (authorized person) |
| <input type="checkbox"/> other (specify): | |

- ☐ by personal delivery on (date):



EXHIBIT “2”

A6060

THE LAW OFFICES OF DEVIN H. FOK
 Devin H. Fok, Esq. (SBN #256599)
 P.O. Box 7165
 Alhambra, CA 91802-7165
 Ph: (310) 430-9933
 Fax: (323) 563-3445
devin@devinfoklaw.com

FILED
 Superior Court of California
 County of Los Angeles

FEB 02 2012

John A. Clarko, Executive Officer/ Clerk
 By M. Soto, Deputy
 MOSES SOTO

A NEW WAY OF LIFE REENTRY PROJECT
 Joshua E. Kim, Esq. (SBN #257260)
 P.O. Box 875288
 Los Angeles, California 90087
 Ph: (323) 563-3575
 Fax: (323) 563-3445
joshua@anewwayoflife.org

Attorneys for Plaintiff
 GABRIEL FELIX MORAN

D-53 STEVEN J.
 KLEIFIELD

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
 COUNTY OF LOS ANGELES**

CASE NO. **BC478220**

GABRIEL FELIX MORAN,
 Plaintiff,

vs.

THE SCREENING PROS, LLC, a California
 corporation; and **DOES 1-10** inclusive,
 Defendants.

**COMPLAINT FOR DAMAGES FOR
 VIOLATIONS OF:**

1. Civ. Code §1786.18(a)(7)
2. Civ. Code §1786.20
3. Unlawful Business Practices Pursuant
 to Bus. & Prof. Code §17200 *et seq.*
4. Unfair Business Practice Pursuant to
 Bus. & Prof. Code §17200 *et seq.*

JURY TRIAL DEMANDED

CIT/CASE: BC478220 LEA/DEF:
 RECEIPT #: CCH524880028
 DATE PAID: 02/02/12 01:31:40 PM
 PAYMENT: \$395.00 0310
 RECEIVED:
 CHECK: 400.00
 CASH: 5.00
 CHANGE:
 CARD:

1 Plaintiff GABRIEL FELIX MORAN (hereafter as "Plaintiff") complains against
2 Defendants THE SCREENING PROS, LLC. (hereafter as Defendant "TSP"); and DOES 1-10
3 inclusive, and alleges as follows:

4
5 **NATURE OF THE ACTION**
6

7 1. Defendant TSP is in the business of issuing background screening reports on California
8 consumers. It is an entity regulated under the California Investigative Consumer Reporting
9 Agencies Act (hereafter as "ICRAA" §1786 *et seq*).

10 2. Defendant TSP fails to abide by the restrictions and requirements set forth therein and
11 routinely provides screening reports that contain prohibited information, including dismissed
12 charges that never resulted in conviction.

13 3. Defendant TSP's violations, on information and belief, occur because Defendant TSP has
14 failed to implement reasonable procedures to avoid the release of prohibited information, and/or
15 because Defendant has failed to implement reasonable procedures to assure maximum possible
16 accuracy of the information contained in its reports.

17 4. As a result of Defendant TSP's wrongful acts and omissions, Plaintiff has been injured,
18 including, without limitation, by virtue of having lost housing opportunities and by having been
19 forced to spend time, money, and energy to clean up after Defendant's errors.

20 5. Plaintiff seeks actual and/or compensatory damages, punitive damages, and equitable
21 relief, including costs and expenses of litigation, including attorney's fees, and appropriate
22 injunctive relief requiring Defendant to comply with its legal obligations, as well as additional
23 and further relief as may be appropriate. Plaintiffs reserve the right to amend this Complaint to
24 add additional relief as permitted under applicable law.

25
26 **THE PARTIES**
27

28 6. Plaintiff GABRIEL FELIX MORAN is, and at all times relevant herein was, a resident
29 of Alameda County, California.

30 7. Defendant THE SCREENING PROS, LLC., is and at all times herein mentioned was, a
31 California corporation with a principal place of business in Los Angeles County, California.
32

1 8. Plaintiff is ignorant of the Defendants sued herein as DOES 1-10, inclusive, and therefore
2 sue those Defendants by such capacities when such information is ascertained.

3 9. Plaintiff is informed and believes and thereon alleges that each of the Doe Defendants is
4 responsible in some manner for the occurrences herein alleged and that Plaintiff's damages as
5 herein alleged were proximately caused by such occurrences.

6 10. Plaintiff is informed and believes and thereon alleges that, at all times herein mentioned,
7 Defendants DOES 1-10, were agents of each other and of the named Defendant and in doing the
8 things alleged in this complaint, were acting in the scope of such agency and with the permission
9 and consent of Defendants.

10 VENUE

11 11. Venue and jurisdiction are proper in this court pursuant to California code of Civil
12 Procedure Sections 395 and 395.5. Defendant's principal place of business in Los Angeles
13 County, California.
14

15 GENERAL ALLEGATIONS

16 12. The California Investigative Consumer Reporting Agency Act ("ICRAA") governs
17 investigative consumer reporting agencies that compile, sell, and furnish investigative consumer
18 reports. *See* Cal. Civ. §1786 *et seq.*
19

20 13. ICRAA was enacted in 1975 for the purpose of ensuring "fairness, impartiality, and a
21 respect for the consumer's right to privacy." Cal. Civ. Code §1786(b).

22 14. An investigative consumer report may only be made to a third intending to use the report
23 for a permissible purpose as prescribed under Cal. Civ. §1786.12; §1786.16(a)(2)(A). A
24 permissible purpose includes eligibility for the hiring of a dwelling house.

25 15. Under ICRAA, such users of investigative consumer reports are liable to the same extent
26 as investigative consumer reporting agencies for any violations of the Act. Cal. Civ. §§1786.50,
27 1786.52.

28 16. Cal. Civ. C. §1786.18(a)(7) prohibits the disclosures of records of arrests, indictment,
29 information, or misdemeanor complaint where a conviction did not result.

30 17. Because criminal records information that did not result in a conviction can severely
31 prejudice the consumer's ability to seek housing, ICRAA prohibits the information from being
32

1 reported in investigative consumer reports furnished to third party users by investigative
2 consumer reporting agencies. *See* Cal. Civ. Code §§1786.18(a).

3 18. In addition, ICRAA imposes a duty on the reporting agency to verify the accuracy of
4 certain information that is a matter of public record, including criminal records of arrest,
5 conviction and parole, to implement reasonable procedures to avoid reporting prohibited
6 information, and to assure maximum possible accuracy of information that is reported. Cal. Civ.
7 Code. §§1786.18(c), §1786.20(a),(b).

8 19. An agency that fails to comply with any requirement of ICRAA is liable for the greater of
9 actual damages sustained by the consumer or \$10,000 as well as reasonable attorney's fees and
10 costs of the action of a prevailing plaintiff and punitive damages for grossly negligent or willful
11 violations. Civ. Code §1786.50(a),(b).

12
13 **DEFENDANT THE SCREENING PRO, LLC.**
14

15 20. Defendant TSP is an investigative consumer reporting agency. It is in the business, for
16 money or dues, of gathering, compiling, and selling to third parties screening reports containing
17 information regarding individual consumers who are looking for, among other things, housing
18 opportunities.

19 21. Defendant TSP sells its investigate consumer reports to, among others, prospective
20 landlords. Defendant's reports contain background information on consumer regarding their
21 general reputation, character, mode of living or other personal characteristics. Among other
22 things, Defendant's reports typically include information regarding criminal histories.

23
24 **PLAINTIFF GABRIEL FELIX MORAN**
25

26 22. Plaintiff hereby incorporates by reference the allegation of paragraphs 1-26, inclusive.

27 23. On or about February 5, 2010, Plaintiff applied for housing with the subject housing
28 development project named MAPLE SQUARE owned and operated by AFFIRMED HOUSING
29 GROUP (hereafter collectively as "MAPLE SQUARE").

30 24. Plaintiff is informed and believes that MAPLE SQUARE, as part of the application
31 assessment process, requested that Defendant TSP furnish an investigative consumer report as
32 defined in Civ. Code §1786.2(c) on Plaintiff.

25. On or about February 5, 2010, Defendant furnished an investigative consumer report on Plaintiff to MAPLE SQUARE (hereafter as "subject ICR" or "the subject report"). The subject report is attached as Exhibit "1" to this Complaint.

26. Defendant's report contains information on Case No. 188935 where it disclosed records of arrests, indictment, information, or misdemeanor complaint where a conviction did not result.

27. Specifically, Defendant's report disclosed that Plaintiff was charged with "CT1: Under the influence of a controlled substance" but never resulted in a conviction.

28. Defendant's report also contains information on Case No. 217842 where it discloses the following charges that did not result in a conviction: "CT1: Burglary 2nd Degree" and "CT2: Forgery"

29. Due to the prohibited information disclosed in the subject report, MAPLE SQUARE denied Plaintiff's rental application, and Plaintiff is entitled to damages pursuant to Cal. Civ. Code § 1786.50(a), (b).

FIRST CAUSE OF ACTION

(Violation of California Civil Code §1786.18(a)(7))

30. Plaintiff hereby incorporates by reference the allegations of paragraph 1-29, inclusive.

31. Defendant is, and at all times herein mentioned was, an investigative consumer reporting agency engaged in the practice of assembling and evaluating information on consumers for the purpose of furnishing investigative consumer reports to third parties for monetary fees.

32. Upon information and believe, Defendant furnished to a third party investigative consumer reports pertaining to Plaintiff.

33. Defendant's report about Plaintiff contained records of arrest, information, misdemeanor or complaint, that did not result in a conviction.

34. At the time the report was made, Defendant was aware of ICRAA's prohibition against disclosure of the prohibited information and also aware that its report to MAPLE SQUARE included such prohibited information. Statutory references to the subject prohibition were made on its own website informing its customers that certain criminal records may not be reportable. Defendant disregarded its own obligations and reported the prohibited information on Plaintiff's investigative consumer report to MAPLE SQUARE.

1 35. Plaintiff was harmed and suffered actual damages as a direct legal, proximate, and
2 foreseeable result of Defendant's violations.

3 36. Defendant's violations were willful and/or grossly negligent because Defendant was
4 aware of its obligations under ICRAA but nonetheless consciously elected to disregard its
5 obligations.
6

7 **SECOND CAUSE OF ACTION**
8 **(Violation of California Civil Code §1786.20)**
9

10 37. Plaintiff hereby incorporates by reference the allegations of paragraphs 1-29, inclusive.

11 38. Defendant is, and at all times herein mentioned was, an investigative consumer reporting
12 agency engaged in the practice of assembling and evaluating information on consumers for the
13 purpose of furnishing investigative consumer reports to third parties for monetary fees.

14 39. Upon information and belief, Defendant also has not, and currently does not maintain
15 reasonable procedures designed to avoid violations of Section 1786.18 and/or does not follow
16 reasonable procedures to assure maximum possible accuracy of the information concerning the
17 individual about whom the report relates.

18 40. Defendant's violations were willful and/or grossly negligent because Defendant was
19 aware of its obligations under ICRAA but nonetheless consciously elected to disregard its
20 obligations.
21

22 **THIRD CAUSE OF ACTION**
23 **(Violation of California B&P §17200 *et seq.*)**
24

25 41. Plaintiffs hereby incorporates by reference the allegations of paragraphs 1 - 29, inclusive.

26 42. Defendant is, and all times herein mentioned was, an investigative consumer reporting
27 agency engaged in the business and practice of assembling and evaluating information on
28 consumers for the purpose of furnishing investigative consumer reports to third parties for
29 monetary fees.

30 43. California Business and Professions Code §17200 *et seq.* prohibits acts of unfair
31 competition, which mean and include any "unlawful...business act or practice."
32

1 44. As more fully described above, the acts and practices alleged herein are unlawful as they
2 violate numerous statutory provisions, including California Civil Codes §1786.18(a)(7), and
3 §1786.20.

4 45. The acts and practices engaged in by Defendant and alleged herein harmed Plaintiffs and,
5 on information and belief, have harmed other California consumers. On information and belief,
6 Defendant's conduct is ongoing and continues to this date.

7 46. Plaintiffs allege that Defendant's misconduct, as alleged herein, gave, and continues to
8 give Defendant an unfair competitive advantage.

9 47. As a direct and proximate result of Defendant's aforementioned acts, Defendant has
10 prospered and benefitted from the sales of its non-compliant screening reports, and has been
11 unjustly enriched by providing non-compliant reports on Plaintiffs and on other consumers and
12 should be required to disgorge its illicit profits and/or be enjoined from continuing such practices
13 under California Business & Professions Code §17200 and related sections.

14
15 **FOURTH CAUSE OF ACTION**

16 **(Violation of California B&P Code §17200 *et seq.*)**

17
18 48. Plaintiffs hereby incorporates by reference the allegations of paragraphs 1 - 30, inclusive.

19 49. California Business and Professions Code §17200, *et seq.* prohibits acts of unfair
20 competition, which mean and include any "unfair...business act or practice."

21 50. As more fully described above, Defendant's acts and practices constitute unfair business
22 acts or practices within the meaning of Business and Professions Code §17200, *et seq.* in that the
23 justification for Defendant's conduct, if any, is outweighed by the harm to the general public.
24 Such conduct is also contrary to public policy, immoral, unethical, oppressive, unscrupulous,
25 and/or substantially injurious to consumers. On information and belief, Defendant's unfair
26 conduct is ongoing and continues to this date.

27 51. The acts and practices engaged in by Defendant and alleged herein harmed Plaintiffs and,
28 on information and belief, have harmed other California consumers. On information and belief,
29 Defendant's conduct is ongoing and continues to this date.

30 52. Plaintiffs allege that Defendant's misconduct, as alleged herein, gave, and continues to
31 give Defendant an unfair competitive advantage.

53. As a direct and proximate result of Defendant's aforementioned acts, Defendant has prospered and benefited from the sales of its non-compliant reports, and has been unjustly enriched by providing of non-compliant screening reports on Plaintiffs and on other consumers and should be required to disgorge illicit and/or enjoined from continuing such practices under California Business & Professions Code §17200 and related sections.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendant, and each of them, as follows:

1. For a declaration that Defendant's practices violate California Civil Code §1786 *et seq.*;
2. For compensatory, special, general and punitive damages according to proof against all Defendants;
3. For interest upon such damages as permitted by law;
4. For an award of reasonable attorney's fees provided by law under all applicable statutes;
5. For the costs of suit;
6. For such other orders of the Court and further relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby request and demand a jury trial on all issues triable by jury.

DATED: February 2, 2012

DEVIN H. FOK ESQ.

THE LAW OFFICES OF DEVIN H. FOK

By: 

Devin H. Fok

Attorneys for Plaintiff GABRIEL F. MORAN

DATED: February 2, 2012

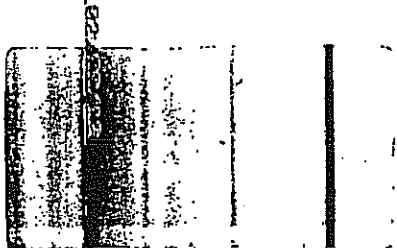
JOSHUA E. KIM ESQ.

A NEW WAY OF LIFE REENTRY PROJECT

By: 

Joshua E. Kim

Attorneys for Plaintiff GABRIEL F. MORAN



Thank You For Using The Screening Pros

On-line reports available 24/7

-- ATTENTION --

The following criminal data is a summary only.
Contact member services if you need the original criminal report.

Consumer Report For: MAPLE SQUARE

Date - Time: 02/05/10 15:31:52

Transaction Number: 465164 - 1

Comment:

-- APPLICANT INFORMATION PROVIDED BY MEMBER --

Applicant Name: MORAN, GABRIEL F

SS#: XXX-XX-9010

State ID#: N6104647 - CA

DOB: 01/22/57

Current Address: 35555 ORLEANS DR, NEWARK, CA 94560

Previous Address:

-- CRIMINAL REPORT --

-- COUNTY CRIMINAL SUMMARY --

County / Jurisdiction: Alameda CA

Case Number: 188935

Filing Date: 05/16/00

Offense Type: Misdemeanor

Charge / Offense: CT1: Under the Influence of a controlled substance

Disposition Date: 03/02/04

Disposition: Dismissed

County / Jurisdiction: Alameda CA

Case Number: 217842

Filing Date: 06/04/06

Offense Type: Misdemeanor

Charge / Offense: CT1: Burglary 2nd degree

Disposition Date: 06/07/06

Disposition: Dismissed

County / Jurisdiction: Alameda CA

Case Number: 217842

Filing Date: 06/04/06

Offense Type: Misdemeanor

Charge / Offense: CT2: Forgery

Disposition Date: 06/07/06

Disposition: Dismissed

02/05/10

County / Jurisdiction: Alameda CA

Case Number: 217842

Filing Date: 06/04/06

Offense Type: Misdemeanor

Charge / Offense: CT3: Embezzlement; Theft by non caretaker from older or dependent adult

Disposition Date: 06/07/06

Disposition: Guilty-60 Days jail; 3 Years court probation; \$500 Fine

NOTE: The dissemination of public records such as criminal records is based on an exact match of an individual's full name and full date of birth. Other identifiers such as address and social security numbers may be used in matching criminal records if available. It is the sole responsibility of the end-user to verify that the requested criminal reports are submitted accurately to ensure an accurate search.

NOTE: There are several states that prevent a consumer reporting agency from reporting records for various reasons. In accordance with specific state law(s), certain criminal records may not be reportable. To identify what these specific provisions are by state, [click here for civil code text](#).

END CRIMINAL REPORT

02/00/12

New Consumer Reports

Page 1 of 7

Thank You For Using The Screening Pros

On-line reports available 24/7

-- WARNING --

The following reports are confidential and use and possession of these
confidential consumer reports are protected and governed by state and federal law.

Consumer Report For: MAPLE SQUARE

Date - Time: 02/05/10 15:31:52

Transaction Number: 465164 - 1

Comment:

-- APPLICANT INFORMATION PROVIDED BY MEMBER --

Applicant's Name: MORAN, GABRIEL F

SS#: XXX-XX-9010

State ID#: N6104647-CA

DOB: 01/22/57

Current Address: 35555 ORLEANS DR, NEWARK, CA 94560

Previous Address:

Lead Source:

Prev Rent:

New Rent:

Monthly Income:

-- EVICTION - RENTAL HISTORY REPORT --

No records matching your applicant

END OF EVICTION - RENTAL HISTORY REPORT

-- REFORMATTED TRANSUNION CREDIT REPORT --

The following credit report has been re-formatted for your convenience.
The applicant's full and complete credit report is attached.

"Red Flag" federal identify theft rule imposes new duties on landlords. Full compliance goes into effect June 1st, 2010.
[Click here for Red Flag Information sheet](#)

-- CONSUMER'S PERSONAL INFORMATION --

Name:	MORAN, GABRIEL F	SS#: XXX-XX-9010	DOB: 01/22/57
Address:	855 TORO LN, LATHROP, CA 95330		As Of: 06/01/00
	5254 RIVERSIDE AV, SAN PABLO, CA 94806		As Of:
	5264 RIVERSIDE AV, SAN PABLO, CA 94806		As Of:
Employer:	GABRIELS GARDENING		As Of:
	NEW HAVEN UNITED SCH		As Of:

-- FACTA ALERTS --

No alerts on record.

-- FRAUD ALERT / CONSUMER MESSAGES --

Address alert. Mismatch - Input does not match file

-- CREDIT SUMMARY --

Total Debt: \$0.00	Total Amt Past Due: \$0.00	FICO Score: N / A
Total Monthly Payments: \$0.00	Total Lines of Credit: 2	
Number of Collection Accounts: 4	Positive Lines of Credit: 2	
Number of Public Records: 0	Negative Lines of Credit: 0	

-- PUBLIC RECORDS --

No Public Records Returned

-- COLLECTIONS --

Original Creditor: MEDICAL	Charge Off Date: 05/08/08	Original Amount: \$2800.00
Collection Company: MEDICREDIT	Date Last Verified: 01/19/10	Current Balance: \$3345.00
Comments: Account Information disputed by consumer		
.....		
Original Creditor: AT T WEST	Charge Off Date: 09/11/09	Original Amount: \$66.00
Collection Company: BAY AREA C S	Date Last Verified: 10/21/09	Current Balance: \$66.00
Comments: Placed for collection		
.....		
Original Creditor: MEL RAMSTEAD METZGER MGT	Charge Off Date: 06/21/07	Original Amount: \$275.00
Collection Company: CB STOCKTON	Date Last Verified: 03/11/08	Current Balance: \$298.00
Comments: Account Information disputed by consumer		
.....		

New Consumer Reports

Page 4 of 7

Original Creditor: 08 BANK OF THE WEST
 Collection Company: BEST SERV CO
 Comments: Paid collection

Charge Off Date: 09/29/06
 Date Last Verified: 06/12/09

Original Amount: \$302.00
 Current Balance: \$0.00

-- ACCOUNT DETAILS --				Legend
Creditor	Opened Date	Currently Past Due	Remarks	
Account Type	Closed Date	Current Balance	12 Month Payment History	
	Verified Date	Monthly Payment		
TOYOTA MTR	08/11/03	-- -- --		
Installment account	-- -- --	-- -- --		
	12/31/04	\$240.00 Monthly		
			Nov Oct Sep Aug Jul Jun May Apr Mar Feb Jan Dec	
				(C) (C) (C) (C) (C) (C) (C) (C) (C) (C) (C) (C)
			'04 '04 '04 '04 '04 '04 '04 '04 '04 '04 '04 '03	
TOYOTA MTR	07/01/00	-- -- --	Closed	
Installment account	07/01/02	-- -- --		
	07/01/02	\$295.00 Monthly		
			Jun May Apr Mar Feb Jan Dec Nov Oct Sep Aug Jul	
				(C) (C) (C) (C) (C) (C) (C) (C) (C) (C) (C) (C)
			'02 '02 '02 '02 '02 '02 '01 '01 '01 '01 '01 '01	

-- CREDIT INQUIRIES --		
Date	Inquirer	Reason
02/05/10	SCREENING PR	Miscellaneous

If you decline your applicant based on information within this TU report, direct them to:
 TransUnion Attn: Consumer Disclosure Department
 P.O. Box 1000, Chester, PA 19022 1 (800) 888-4213

END OF REFORMATTED TRANSUNION CREDIT REPORT

02/02/12

00000465164001

TRANSUNION CREDIT REPORT

<FOR> <SUB NAME> <MKT SUB> <INFILE> <DATE> <TIME>
 (I) Z LA2824851 SCREENING PR 12 SK 11/83 02/05/10 17:34CT

<SUBJECT> <SSN> <BIRTH DATE>
 MORAN, GABRIEL F. 000-00-9010 1/57

<CURRENT ADDRESS> <DATE RPTD>
 855 TORO LN., LATHROP CA. 95330 6/00

<FORMER ADDRESS>
 5254 RIVERSIDE AV., SAN PABLO CA. 94806
 5264 RIVERSIDE AV., SAN PABLO CA. 94806
 <CURRENT EMPLOYER AND ADDRESS>
 GABRIELS GARDENING

<FORMER EMPLOYER AND ADDRESS>
 NEW HAVEN UNITED SCH

SPECIAL MESSAGES

ADDRESS ALERT: CURRENT INPUT ADDRESS DOES NOT MATCH FILE ADDRESS(ES)
 ****HIGH RISK FRAUD ALERT: CLEAR FOR ALL SEARCHES PERFORMED***

CREDIT SUMMARY * * * TOTAL FILE HISTORY
 PR=0 COL=4 NEG=0 HSTNEG=0 TRD=2 RVL=0 INST=2 MTG=0 OPN=0 INQ=1
 HIGH CRED CRED LIM BALANCE PAST DUE MNTHLY PAY AVAILABLE
 INSTALLMENT: \$10.1K \$ \$ \$0
 TOTALS: \$10.1K \$ \$ \$0 \$

COLLECTIONS

SUBNAME	SUBCODE	ECOA	OPENED	CLOSED	\$PLACED	CREDITOR	MOP
ACCOUNT#			VERIFIED		BALANCE	REMARKS	
MEDICREDIT	Y 184P007 I		5/08		\$2800	MEDICAL	O9B
15137598			1/10A		\$3345	ACCT INFO DSP BY CSM	
BAY AREA C S	Y 4445001 I		9/09		\$66	AT T WEST	O9B
82369824			10/09A		\$66	PLACED FOR COLLECTIO	
CB STOCKTON	Y 1XYF001 I		6/07		\$275	MEL RAMSTEAD METZG	O9B
5010760000358662			3/08A		\$298	ACCT INFO DSP BY CSM	
BEST SERV CO	Y 200N001 I		9/06	5/09F	\$302	08 BANK OF THE WES	O9P
6296			6/09A		\$0	PAID COLLECTION	

TRADES

SUBNAME	SUBCODE	OPENED	HIGHCRED	TERMS	MAXDELQ	PAYPAT	1-12 MOP
ACCOUNT#		VERIFIED	CREDLIM	PASTDUE	AMT-MOP	PAYPAT	13-24
ECOA COLLATRL/LOANTYPE	CLSD/PD	BALANCE	REMARKS				MO 30/60/90
TOYOTA MTR	Q 4176123	8/03	\$10.1K	60M240		111111111111	I01
70400362961510001		12/04A		\$0		11111	
I AUTOMOBILE						17	0/ 0/ 0
TOYOTA MTR	Q 4176123	7/00	\$6195	24M295		111111111111	I01
70400361920870001		7/02A		\$0		111111111111	

New Consumer Reports

Page 6 of 7

I AUTOMOBILE 7/02C \$0 CLOSED 24 0/ 0/ 0.

I N Q U I R I E S

DATE	SUBCODE	SUBNAME	TYPE	AMOUNT
2/05/10	ZLA2824851	(CAL)	SCREENING PR	

C R E D I T R E P O R T S E R V I C E D B Y :
TRANSUNION

800 888-4213

2 BALDWIN PLACE, P. O. BOX 1000, CHESTER, PA. 19022

Consumer disclosures can be obtained online through TransUnion at:

<http://www.transunion.com>

END OF TRANSUNION REPORT

If you decline your applicant based on information within this TU report, direct them to:
TransUnion Attn:Consumer Disclosure Department
P.O. Box 1000, Chester, PA 19022 1 (800) 888-4213

END OF ORIGINAL TRANSUNION CREDIT REPORT

New Consumer Reports

Page 7 of 7

-- CRIMINAL REPORT ORDER --

Your order for the following criminal reports has been received and is currently being processed.
Your report(s) will be available on-line when completed.

County Criminal (1 County)

END OF CRIMINAL REPORT ORDER

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, Bar number, and address): Devin H. Fok (256599); Joshua E. Kim (257260) P.O. Box 875288 Los Angeles, CA 90087 TELEPHONE NO.: 310-430-9933 FAX NO.: 323-563-3445 ATTORNEY FOR (Name): Gabriel Felix Moran		FOR COURT USE ONLY <div style="font-size: 2em; font-weight: bold; margin: 10px 0;">FILED</div> Superior Court of California County of Los Angeles <div style="font-size: 1.5em; font-weight: bold; margin: 10px 0;">FEB 02 2012</div> John A. Clarke, Executive Officer/ Clerk By <u>M. Soto</u> , Deputy <div style="font-weight: bold; margin: 5px 0;">MOSES SOTO</div>	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Los Angeles STREET ADDRESS: 111 N. Hill St. MAILING ADDRESS: CITY AND ZIP CODE: Los Angeles, CA 90012 BRANCH NAME: Central - Stanley Mosk		CASE NAME: Moran v. The Screening Pros, LLC	
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)		Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)	
CASE NUMBER: <div style="font-size: 1.5em; font-weight: bold;">BC478220</div>		JUDGE: DEPT:	

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:		
Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input checked="" type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)

2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------|
| a. <input type="checkbox"/> Large number of separately represented parties. | d. <input type="checkbox"/> Large number of witnesses |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence | f. <input type="checkbox"/> Substantial postjudgment judicial supervision |
3. Remedies sought (check all that apply): a. ☒ monetary b. ☒ nonmonetary; declaratory or injunctive relief c. ☒ punitive
4. Number of causes of action (specify): Violations of ICRAA Civ. C. Section 1786 et seq.
5. This case ☐ is ☒ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: 2/1/2012
 Devin H. Fok

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

SHORT TITLE:

Moran v. The Screening Pros, LLC

CASE NUMBER

**CIVIL CASE COVER SHEET ADDENDUM AND
STATEMENT OF LOCATION
(CERTIFICATE OF GROUNDS FOR ASSIGNMENT TO COURTHOUSE LOCATION)**

This form is required pursuant to Local Rule 2.0 in all new civil case filings in the Los Angeles Superior Court.

Item I. Check the types of hearing and fill in the estimated length of hearing expected for this case:

JURY TRIAL? ☒ YES CLASS ACTION? ☐ YES LIMITED CASE? ☐ YES TIME ESTIMATED FOR TRIAL ³ ☐ HOURS/ ☒ DAYS

Item II. Indicate the correct district and courthouse location (4 steps – If you checked "Limited Case", skip to Item III, Pg. 4):

Step 1: After first completing the Civil Case Cover Sheet form, find the main Civil Case Cover Sheet heading for your case in the left margin below, and, to the right in Column **A**, the Civil Case Cover Sheet case type you selected.

Step 2: Check one Superior Court type of action in Column **B** below which best describes the nature of this case.

Step 3: In Column **C**, circle the reason for the court location choice that applies to the type of action you have checked. For any exception to the court location, see Local Rule 2.0.

Applicable Reasons for Choosing Courthouse Location (see Column C below)

- | | |
|----------------------------------------------------------------------------------|------------------------------------------------------------|
| 1. Class actions must be filed in the Stanley Mosk Courthouse, central district. | 6. Location of property or permanently garaged vehicle. |
| 2. May be filed in central (other county, or no bodily injury/property damage). | 7. Location where petitioner resides. |
| 3. Location where cause of action arose. | 8. Location wherein defendant/respondent functions wholly. |
| 4. Location where bodily injury, death or damage occurred. | 9. Location where one or more of the parties reside. |
| 5. Location where performance required or defendant resides. | 10. Location of Labor Commissioner Office |

Step 4: Fill in the information requested on page 4 in Item III; complete Item IV. Sign the declaration.

	A Civil Case Cover Sheet Category/No.	B Type of Action (Check only one)	C Applicable Reasons (See Step 3/Above)
Auto Tort	Auto (22)	<input type="checkbox"/> A7100 Motor Vehicle - Personal Injury/Property Damage/Wrongful Death	1., 2., 4.
	Uninsured Motorist (46)	<input type="checkbox"/> A7110 Personal Injury/Property Damage/Wrongful Death - Uninsured Motorist	1., 2., 4.
Other Personal Injury/Property Damage/Wrongful Death Tort	Asbestos (04)	<input type="checkbox"/> A6070 Asbestos Property Damage <input type="checkbox"/> A7221 Asbestos - Personal Injury/Wrongful Death	2., 4., 10. 2.
	Product Liability (24)	<input type="checkbox"/> A7260 Product Liability (not asbestos or toxic/environmental)	1., 2., 3., 4., 8.
	Medical Malpractice (45)	<input type="checkbox"/> A7210 Medical Malpractice - Physicians & Surgeons	1., 4.
		<input type="checkbox"/> A7240 Other Professional Health Care Malpractice	1., 4.
	Other Personal Injury/Property Damage/Wrongful Death (23)	<input type="checkbox"/> A7250 Premises Liability (e.g., slip and fall) <input type="checkbox"/> A7230 Intentional Bodily Injury/Property Damage/Wrongful Death (e.g., assault, vandalism, etc.) <input type="checkbox"/> A7270 Intentional Infliction of Emotional Distress <input type="checkbox"/> A7220 Other Personal Injury/Property Damage/Wrongful Death	1., 4. 1., 4. 1., 3. 1., 4.

SHORT TITLE:

Moran v. The Screening Pros, LLC

CASE NUMBER

Non-Personal Injury/Property
Damage/ Wrongful Death Tort

Employment

Contract

Real Property

Unlawful Detainer

A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons See Step 3 Above
Business Tort (07)	<input type="checkbox"/> A6029 Other Commercial/Business Tort (not fraud/breach of contract)	1., 3.
Civil Rights (08)	<input type="checkbox"/> A6005 Civil Rights/Discrimination	1., 2., 3.
Defamation (13)	<input type="checkbox"/> A6010 Defamation (slander/libel)	1., 2., 3.
Fraud (16)	<input type="checkbox"/> A6013 Fraud (no contract)	1., 2., 3.
Professional Negligence (25)	<input type="checkbox"/> A6017 Legal Malpractice <input type="checkbox"/> A6050 Other Professional Malpractice (not medical or legal)	1., 2., 3. 1., 2., 3.
Other (35)	<input type="checkbox"/> A6025 Other Non-Personal Injury/Property Damage tort	2., 3.
Wrongful Termination (36)	<input type="checkbox"/> A6037 Wrongful Termination	1., 2., 3.
Other Employment (15)	<input type="checkbox"/> A6024 Other Employment Complaint Case <input type="checkbox"/> A6109 Labor Commissioner Appeals	1., 2., 3. 10.
Breach of Contract/ Warranty (06) (not insurance)	<input type="checkbox"/> A6004 Breach of Rental/Lease Contract (not unlawful detainer or wrongful eviction) <input type="checkbox"/> A6008 Contract/Warranty Breach -Seller Plaintiff (no fraud/negligence) <input type="checkbox"/> A6019 Negligent Breach of Contract/Warranty (no fraud) <input type="checkbox"/> A6028 Other Breach of Contract/Warranty (not fraud or negligence)	2., 5. 2., 5. 1., 2., 5. 1., 2., 5.
Collections (09)	<input type="checkbox"/> A6002 Collections Case-Seller Plaintiff <input type="checkbox"/> A6012 Other Promissory Note/Collections Case	2., 5., 6. 2., 5.
Insurance Coverage (18)	<input type="checkbox"/> A6015 Insurance Coverage (not complex)	1., 2., 5., 8.
Other Contract (37)	<input type="checkbox"/> A6009 Contractual Fraud <input type="checkbox"/> A6031 Tortious Interference <input type="checkbox"/> A6027 Other Contract Dispute(not breach/insurance/fraud/negligence)	1., 2., 3., 5. 1., 2., 3., 5. 1., 2., 3., 8.
Eminent Domain/Inverse Condemnation (14)	<input type="checkbox"/> A7300 Eminent Domain/Condemnation. Number of parcels _____	2., 3.
Wrongful Eviction (33)	<input type="checkbox"/> A6023 Wrongful Eviction Case	2., 6.
Other Real Property (26)	<input type="checkbox"/> A6018 Mortgage Foreclosure <input type="checkbox"/> A6032 Quiet Title <input checked="" type="checkbox"/> A6060 Other Real Property (not eminent domain, landlord/tenant, foreclosure)	2., 6. 2., 6. 2., 6.
Unlawful Detainer-Commercial (31)	<input type="checkbox"/> A6021 Unlawful Detainer-Commercial (not drugs or wrongful eviction)	2., 6.
Unlawful Detainer-Residential (32)	<input type="checkbox"/> A6020 Unlawful Detainer-Residential (not drugs or wrongful eviction)	2., 6.
Unlawful Detainer- Post-Foreclosure (34)	<input type="checkbox"/> A6020F Unlawful Detainer-Post-Foreclosure	2., 6.
Unlawful Detainer-Drugs (38)	<input type="checkbox"/> A6022 Unlawful Detainer-Drugs	2., 6.

SHORT TITLE:

Moran v. The Screening Pros, LLC

CASE NUMBER

A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons (See Step 3 Above)
Asset Forfeiture (05)	<input type="checkbox"/> A6108 Asset Forfeiture Case	2., 6.
Petition re Arbitration (11)	<input type="checkbox"/> A6115 Petition to Compel/Confirm/Vacate Arbitration	2., 5.
Writ of Mandate (02)	<input type="checkbox"/> A6151 Writ - Administrative Mandamus <input type="checkbox"/> A6152 Writ - Mandamus on Limited Court Case Matter <input type="checkbox"/> A6153 Writ - Other Limited Court Case Review	2., 8. 2. 2.
Other Judicial Review (39)	<input type="checkbox"/> A6150 Other Writ /Judicial Review	2., 8.
Antitrust/Trade Regulation (03)	<input type="checkbox"/> A6003 Antitrust/Trade Regulation	1., 2., 8.
Construction Defect (10)	<input type="checkbox"/> A6007 Construction Defect	1., 2., 3.
Claims Involving Mass Tort (40)	<input type="checkbox"/> A6006 Claims Involving Mass Tort	1., 2., 8.
Securities Litigation (28)	<input type="checkbox"/> A6035 Securities Litigation Case	1., 2., 8.
Toxic Tort Environmental (30)	<input type="checkbox"/> A6036 Toxic Tort/Environmental	1., 2., 3., 8.
Insurance Coverage Claims from Complex Case (41)	<input type="checkbox"/> A6014 Insurance Coverage/Subrogation (complex case only)	1., 2., 5., 8.
Enforcement of Judgment (20)	<input type="checkbox"/> A6141 Sister State Judgment <input type="checkbox"/> A6160 Abstract of Judgment <input type="checkbox"/> A6107 Confession of Judgment (non-domestic relations) <input type="checkbox"/> A6140 Administrative Agency Award (not unpaid taxes) <input type="checkbox"/> A6114 Petition/Certificate for Entry of Judgment on Unpaid Tax <input type="checkbox"/> A6112 Other Enforcement of Judgment Case	2., 9. 2., 6. 2., 9. 2., 8. 2., 8. 2., 8., 9.
RICO (27)	<input type="checkbox"/> A6033 Racketeering (RICO) Case	1., 2., 8.
Other Complaints (Not Specified Above) (42)	<input type="checkbox"/> A6030 Declaratory Relief Only <input type="checkbox"/> A6040 Injunctive Relief Only (not domestic/harassment) <input type="checkbox"/> A6011 Other Commercial Complaint Case (non-tort/non-complex) <input type="checkbox"/> A6000 Other Civil Complaint (non-tort/non-complex)	1., 2., 8. 2., 8. 1., 2., 8. 1., 2., 8.
Partnership, Corporation Governance (21)	<input type="checkbox"/> A6113 Partnership and Corporate Governance Case	2., 8.
Other Petitions (Not Specified Above) (43)	<input type="checkbox"/> A6121 Civil Harassment <input type="checkbox"/> A6123 Workplace Harassment <input type="checkbox"/> A6124 Elder/Dependent Adult Abuse Case <input type="checkbox"/> A6190 Election Contest <input type="checkbox"/> A6110 Petition for Change of Name <input type="checkbox"/> A6170 Petition for Relief from Late Claim Law <input type="checkbox"/> A6100 Other Civil Petition	2., 3., 9. 2., 3., 9. 2., 3., 9. 2. 2., 7. 2., 3., 4., 8. 2., 9.

SHORT TITLE: Moran v. The Screening Pros, LLC	CASE NUMBER
--------------------------------------------------	-------------

Item III. Statement of Location: Enter the address of the accident, party's residence or place of business, performance, or other circumstance indicated in Item II., Step 3 on Page 1, as the proper reason for filing in the court location you selected.

REASON: Check the appropriate boxes for the numbers shown under Column C for the type of action that you have selected for this case. <input type="checkbox"/> 1. <input checked="" type="checkbox"/> 2. <input type="checkbox"/> 3. <input type="checkbox"/> 4. <input type="checkbox"/> 5. <input type="checkbox"/> 6. <input type="checkbox"/> 7. <input type="checkbox"/> 8. <input type="checkbox"/> 9. <input type="checkbox"/> 10.			ADDRESS: 4195 E. Thousand Oaks Blvd., #235 Thousand Oaks, CA 91362
CITY: Thousand Oaks	STATE: CA	ZIP CODE: 91362	

Item IV. Declaration of Assignment: I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that the above-entitled matter is properly filed for assignment to the Stanley Mosk courthouse in the Central District of the Superior Court of California, County of Los Angeles [Code Civ. Proc., § 392 et seq., and Local Rule 2.0, subds. (b), (c) and (d)].

Dated: 2/1/2012


(SIGNATURE OF ATTORNEY/FILING PARTY)

PLEASE HAVE THE FOLLOWING ITEMS COMPLETED AND READY TO BE FILED IN ORDER TO PROPERLY COMMENCE YOUR NEW COURT CASE:

1. Original Complaint or Petition.
2. If filing a Complaint, a completed Summons form for issuance by the Clerk.
3. Civil Case Cover Sheet, Judicial Council form CM-010.
4. Civil Case Cover Sheet Addendum and Statement of Location form, LACIV 109, LASC Approved 03-04 (Rev. 03/11).
5. Payment in full of the filing fee, unless fees have been waived.
6. A signed order appointing the Guardian ad Litem, Judicial Council form CIV-010, if the plaintiff or petitioner is a minor under 18 years of age will be required by Court in order to issue a summons.
7. Additional copies of documents to be conformed by the Clerk. Copies of the cover sheet and this addendum must be served along with the summons and complaint, or other initiating pleading in the case.

EXHIBIT “3”

POS-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Devin H. Fok (256599); Joshua E. Kim (257260) P. O. Box 875288 Los Angeles, CA 90087 TELEPHONE NO.: 310-430-9933 FAX NO. (Optional): 323-563-3445 E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): Gabriel Felix Moran		FOR COURT USE ONLY FILED SUPERIOR COURT OF CALIFORNIA COUNTY OF LOS ANGELES MAR 07 2012 John A. Clarke, Executive Officer/Clerk By <i>[Signature]</i> , Deputy Amber La-Fleur-Clayton John A. Clarke, Executive Officer/Clerk By <i>[Signature]</i> , Deputy DOROTHY SWAIN CASE NUMBER: BC 47 8220
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: 111 N. Hill Street MAILING ADDRESS: CITY AND ZIP CODE: Los Angeles, CA 90012 BRANCH NAME: Central - Stanley Mosk		
PLAINTIFF/PETITIONER: Moran DEFENDANT/RESPONDENT: The Screening Pros. LLC		
PROOF OF SERVICE OF SUMMONS		Ref. No. or File No.:

(Separate proof of service is required for each party served.)

- At the time of service I was at least 18 years of age and not a party to this action.
- I served copies of:
 - ☒ summons
 - ☐ complaint
 - ☒ Alternative Dispute Resolution (ADR) package
 - ☒ Civil Case Cover Sheet (served in complex cases only)
 - ☐ cross-complaint
 - ☒ other (specify documents): Civil Case Cover Sheet Addendum and Statement of Location; Exhibit "1"; Notice of Case Assignment-Unlimited Civil Case; Blank Stipulation of Participation
- Party served (specify name of party as shown on documents served): in Alternative Dispute Resolution (ADR)
 - ☒ Person (other than the party in item 3a) served on behalf of an entity or as an authorized agent (and not a person under item 5b on whom substituted service was made) (specify name and relationship to the party named in item 3a):
David Leon
- Address where the party was served: 6345 Balboa Blvd., #J-300
Encino, CA 91316
- I served the party (check proper box)
 - ☒ by personal service. I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on (date): 2/14/2012 (2) at (time): 10:54 a.m.
 - ☐ by substituted service. On (date): at (time): I left the documents listed in item 2 with or in the presence of (name and title or relationship to person indicated in item 3):
 - ☐ (business) a person at least 18 years of age apparently in charge at the office or usual place of business of the person to be served. I informed him or her of the general nature of the papers.
 - ☐ (home) a competent member of the household (at least 18 years of age) at the dwelling house or usual place of abode of the party. I informed him or her of the general nature of the papers.
 - ☐ (physical address unknown) a person at least 18 years of age apparently in charge at the usual mailing address of the person to be served, other than a United States Postal Service post office box. I informed him or her of the general nature of the papers.
 - ☐ I thereafter mailed (by first-class, postage prepaid) copies of the documents to the person to be served at the place where the copies were left (Code Civ. Proc., § 415.20). I mailed the documents on (date): from (city): or ☐ a declaration of mailing is attached.
 - ☐ I attach a declaration of diligence stating actions taken first to attempt personal service.

Page 1 of 2

PLAINTIFF/PETITIONER: Moran	CASE NUMBER:
DEFENDANT/RESPONDENT: The Screening Pros. LLC	

5. c. ☐ by mail and acknowledgment of receipt of service. I mailed the documents listed in item 2 to the party, to the address shown in item 4, by first-class mail, postage prepaid,
- (1) on (date): (2) from (city):
- (3) ☐ with two copies of the *Notice and Acknowledgment of Receipt* and a postage-paid return envelope addressed to me. (Attach completed *Notice and Acknowledgment of Receipt*.) (Code Civ. Proc., § 415.30.)
- (4) ☐ to an address outside California with return receipt requested. (Code Civ. Proc., § 415.40.)
- d. ☐ by other means (specify means of service and authorizing code section):

☐ Additional page describing service is attached.

6. The "Notice to the Person Served" (on the summons) was completed as follows:

- a. ☐ as an individual defendant.
- b. ☐ as the person sued under the fictitious name of (specify):
- c. ☐ as occupant.
- d. ☐ On behalf of (specify):

under the following Code of Civil Procedure section:

- | | |
|-------------------------------------------------------------------|-----------------------------------------------------------------------|
| <input type="checkbox"/> 416.10 (corporation) | <input type="checkbox"/> 415.95 (business organization, form unknown) |
| <input type="checkbox"/> 416.20 (defunct corporation) | <input type="checkbox"/> 416.60 (minor) |
| <input type="checkbox"/> 416.30 (joint stock company/association) | <input type="checkbox"/> 416.70 (ward or conservatee) |
| <input type="checkbox"/> 416.40 (association or partnership) | <input type="checkbox"/> 416.90 (authorized person) |
| <input type="checkbox"/> 416.50 (public entity) | <input type="checkbox"/> 415.46 (occupant) |
| | <input type="checkbox"/> other: |

7. Person who served papers

- a. Name: Denis Contreras - BIC Photocopy & Legal Services
- b. Address: P. O. Box 17734 Beverly Hills, CA 90209
- c. Telephone number: 323-782-6934
- d. The fee for service was: \$
- e. I am:

- (1) ☐ not a registered California process server.
- (2) ☐ exempt from registration under Business and Professions Code section 22350(b).
- (3) ☒ a registered California process server:
- (i) ☐ owner ☒ employee ☒ independent contractor.
- (ii) Registration No.: 4839
- (iii) County: Los Angeles

8. ☒ I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

or

9. ☐ I am a California sheriff or marshal and I certify that the foregoing is true and correct.

Date: 2/15/2012

DENIS CONTRERAS

(NAME OF PERSON WHO SERVED PAPERS/SHERIFF OR MARSHAL)

(SIGNATURE)

EXHIBIT “4”

JACOBSON, RUSSELL, SALTZ & FINGERMAN, LLP
Michael J. Saltz, Esq. SBN 189751
G. Austin Sperry, Esq. SBN 278535
10866 Wilshire Boulevard, Suite 1550
Los Angeles, CA 90024
Telephone: (310) 446-9900
Facsimile: (310) 446-9909
msaltz@jrsflp.com
asperry@jrsflp.com

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

MAR 15 2012

John A. Clark, Executive Officer/Clerk
BY [Signature], Deputy
Clerk

Attorneys for Defendant THE SCREENING PROS, LLC

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES**

GABRIEL FELIX MORAN;

Plaintiff,

vs.

THE SCREENING PROS, LLC, a California
Corporation; and DOES 1-10 inclusive;

Defendants.

UNLIMITED JURISDICTION

Case No.: BC478220

[Assigned for all purposes to the Honorable
Steven J. Kleinfeld, Department 53]

**DEFENDANT'S NOTICE OF DEMURRER
AND DEMURRER TO PLAINTIFF'S
COMPLAINT FOR DAMAGES;
MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT THEREOF**

DATE: June 25, 2012
TIME: 8:30 AM
DEPT. 53

Complaint filed: Feb. 2, 2012
Discovery Cut-Off: TBD
Trial Date: TBD

TO THE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF RECORD

PLEASE TAKE NOTICE that on June 25, 2012 at 8:30 AM in Department 53 of the
entitled Court, or as soon thereafter as the matter may be heard by the Honorable Steven J. Kleinfeld,

Case No.: BC478220
File No.: 5.371.001

ORIGINAL

DEMURRER TO COMPLAINT FOR DAMAGES

Jacobson, Russell, Saltz & Fingerman, LLP
10866 Wilshire Boulevard, Suite 1550 Los Angeles, CA 90024
Tel.: 310.446.9900 • Fax: 310.446.9909

CIT/ENSE: BC478220-LEA/DEFB:
RECEIPT #: 08150727010
DATE PAID: 03/15/12 01:52:46 PM
PAYMENT: \$395.00
RECEIVED:
CHECK: 395.00
CASH:
CHANGE:
CARG:

1 Defendant The Screening Pros, LLC, pursuant to *Code of Civil Procedure* § 430.010 et seq., will
2 demur to the Complaint for Damages filed by Plaintiff Gabriel Felix Moran as follows:

3 1. Defendant will demur to Plaintiff's First Cause of Action for Violation of California *Civil*
4 *Code* § 1786.18(a)(7) on the grounds that said cause of action does not state enough facts to constitute
5 a legal claim against Defendant;

6 2. Defendant will demur to Plaintiff's Second Cause of Action for Violation of California
7 *Civil Code* § 1786.20 on the grounds that said cause of action does not state enough facts to constitute
8 a legal claim against Defendant;

9 3. Defendant will demur to Plaintiff's Third Cause of Action for Violation of California
10 *Business & Professions Code* § 17200 et. seq. on the grounds that said cause of action does not state
11 enough facts to constitute a legal claim against Defendant; and

12 4. Defendant will demur to Plaintiff's Fourth Cause of Action for Violation of California
13 *Business & Professions Code* § 17200 et. seq. on the grounds that said cause of action does not state
14 enough facts to constitute a legal claim against Defendant.

15 The demurrer will be made under *Code of Civil Procedure* § 430.010 et seq. on the grounds
16 that each cause of action asserted in the Complaint fails to set forth enough facts to constitute a claim
17 against Defendant.

18 The demurrer will be based on the attached Memorandum of Points and Authorities, including
19 any declarations and exhibits filed therewith, the complete files and records of this action, those
20 matters of which the Court may and must take judicial notice, and such other and further evidence and
21 argument which may be presented at the hearing on this motion.

22 Dated: March 7, 2012

Jacobson, Russell, Saltz & Fingerman LLP

23
24 
25 Michael J. Saltz, Esq.
26 Attorneys for Defendant The Screening Pros, LLC
27
28

Case No.: BC478220
File No.: 5.371.001

DEMURRER

Defendant The Screening Pros, LLC, pursuant to *Code of Civil Procedure* § 430.010 et seq., hereby demurs to the Complaint for Damages filed by Plaintiff Gabriel Felix Moran as follows:

1. Defendant will demur to Plaintiff's First Cause of Action for Violation of California *Civil Code* § 1786.18(a)(7) on the grounds that said cause of action does not state enough facts to constitute a legal claim against Defendant;

2. Defendant will demur to Plaintiff's Second Cause of Action for Violation of California *Civil Code* § 1786.20 on the grounds that said cause of action does not state enough facts to constitute a legal claim against Defendant;

3. Defendant will demur to Plaintiff's Third Cause of Action for Violation of California *Business & Professions Code* § 17200 et. seq. on the grounds that said cause of action does not state enough facts to constitute a legal claim against Defendant; and

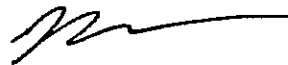
4. Defendant will demur to Plaintiff's Fourth Cause of Action for Violation of California *Business & Professions Code* § 17200 et. seq. on the grounds that said cause of action does not state enough facts to constitute a legal claim against Defendant.

The demurrer is made under *Code of Civil Procedure* § 430.010 et seq. on the grounds that each cause of action asserted in the Complaint fails to set forth enough facts to constitute a claim against Defendant.

The demurrer is based on the attached Memorandum of Points and Authorities, including any declarations and exhibits filed therewith, the complete files and records of this action, those matters of which the Court may and must take judicial notice, and such other and further evidence and argument which may be presented at the hearing on this motion.

Dated: March 7, 2012

Jacobson, Russell, Saltz & Fingerman LLP



Michael J. Saltz, Esq.
Attorneys for Defendant The Screening Pros, LLC

TABLE OF CONTENTS

1	MEMORANDUM OF POINTS AND AUTHORITIES.....	1
3	1. INTRODUCTION AND RELEVANT ALLEGATIONS	1
4	2. LEGAL ARGUMENT	4
5	A. STANDARD ON DEMURRER	4
6	B. THE HISTORY OF CCRAA AND ICRAA	5
7	C. THE ATTACHED REPORT IS NOT AN ICR AS A MATTER OF LAW, AND THUS	
8	THE ENTIRE COMPLAINT FAILS TO STATE A CAUSE OF ACTION FOR	
9	VIOLATION OF ICRAA.....	8
10	1) The Mere Presence Of Public Criminal And Civil Court Records Does Not Make A	
11	Tenant Screening Report An ICR, Or Else ICRAA Becomes Unconstitutionally Vague	
12	As A Matter of Law.....	8
13	D. ALL ICRAA AND CCRAA STATUTES THAT IN ANY WAY RESTRICT THE	
14	REPORTING OF TRUTHFUL PUBLIC RECORD INFORMATION IN ANY	
15	MANNER ARE UNCONSTITUTIONAL AS A MATTER OF LAW AND CANNOT	
16	BE THE BASIS OF A VIOLATION OF ICRAA OR CCRAA.....	11
17	E. PLAINTIFF LACKS STANDING TO BRING A UBP CLAIM.	14
18	1) Since The ICRAA Does Not Apply To This Case, No Violation of Any Statue Has	
19	Been Alleged.	14
20	2) No Money Or Property Subject To Restitution Has Been Alleged To Establish Standing	
21	To Plead A UBP Claim.	14
22	3. CONCLUSION	15

TABLE OF AUTHORITIESCases

<i>Bradler v. Craig</i> (1969) 274 Cal.App.2d 466	5
<i>Breneric Associates v. City of Del Mar</i> (1998) 69 Cal.App.4th 166.....	3, 4
<i>C&H Foods, Co. v. Hartford Insurance Co.</i> (1984) 163 Cal.App.3d 1055	5
<i>Citizens of Humanity, LLC v. Costco Wholesale Corp.</i> (2009) 171 Cal.App.4th 1	15
<i>Fontenot v. Wells Fargo Bank, N.A.</i> (2011) 198 Cal.App.4th 256	4
<i>Kasky v. Nike, Inc.</i> (2002) 27 Cal.4th 939	14
<i>Korea Supply Co. v. Lockheed Martin Corp.</i> (2003) 29 Cal.4th 1134.....	14, 15
<i>Locton v. O'Rourke</i> (2010) 184 Cal.App.4th 1051	4
<i>Mead v. Sanwa Bank California</i> (1998) 61 Cal.App.4th 561	3, 4
<i>Ortiz v. Lyon Management Group, Inc.</i> (2007) 157 Cal.App.4th 604	passim
<i>Picton v. Anderson Union High School District</i> , (1996) 50 Cal.App.4th 726	4
<i>Trujillo v. First American Registry, Inc.</i> (2007) 157 Cal.App.4th 628	3, 4, 9, 14
<i>U.D. Registry v. State of California</i> (2006) 144 Cal.App.4th 405	2, 6, 12
<i>U.D. Registry, Inc. v. State of California</i> (1995) 34 Cal.App.4th 107	2, 6, 12
<i>Washington v. County of Contra Costa</i> (1995) 38 Cal.App.4th 890.....	4

Statutes

15 USC § 1681a(d).....	5
<i>Bus. & Prof. Code</i> § 17200	4
<i>Civ. Code</i> § 1785.1(d)	6
<i>Civ. Code</i> § 1785.11	6
<i>Civ. Code</i> § 1785.11(a)(3)(E).....	6
<i>Civ. Code</i> § 1785.11.2	12
<i>Civ. Code</i> § 1785.13	3, 8
<i>Civ. Code</i> § 1785.13(a)(3).....	6, 12

Case No.: BC478220

File No.: 5.371.001

v

DEMURRER TO COMPLAINT FOR DAMAGES

Jacobson, Russell, Saltz & Fingerman, LLP
10866 Wilshire Boulevard, Suite 1550 Los Angeles, CA 90024
Tel.: 310.446.9900 • Fax: 310.446.9909

1	<i>Civ. Code</i> § 1785.13(a)(6).....	11, 12
2	<i>Civ. Code</i> § 1785.3(a)(3).....	6
3	<i>Civ. Code</i> § 1785.3(c)(3).....	6
4	<i>Civ. Code</i> § 1786(a).....	6
5	<i>Civ. Code</i> § 1786(f).....	6
6	<i>Civ. Code</i> § 1786.12(d)(5).....	6
7	<i>Civ. Code</i> § 1786.18.....	3, 6, 8
8	<i>Civ. Code</i> § 1786.2(b).....	6
9	<i>Civ. Code</i> § 1786.2(c).....	5, 6, 7
10	<i>Civ. Code</i> , § 1785.3(c).....	5, 6, 7
11	<i>Civ. Code</i> , former § 1785.3(c).....	2, 5, 8
12	<i>Civ. Code</i> , former § 1786.2(c).....	3, 5, 8
13	<i>Penal Code</i> § 1203.4.....	1, 11
14	<u>Other Authorities</u>	
15	Legislative Counsel's Digest of Senate Bill 1406 (1981-1982 Reg. Sess.) as introduced on February 1,	
16	1982.....	7

MEMORANDUM OF POINTS AND AUTHORITIES

1. INTRODUCTION AND RELEVANT ALLEGATIONS

This case involves claims by Plaintiff Garbiel Felix Moran ("Plaintiff") against Defendant The Screening Pros, LLC ("TSP") arising out of a tenant screening report issued by TSP regarding Plaintiff that reported truthful information about Plaintiff's criminal history and convictions along side Plaintiff's credit report containing no less than four separate collection accounts.

Specifically, Plaintiff alleges that "TSP is in the business of issuing background screening reports on California consumers." [Complaint ¶ 1]. Plaintiff then claims that said screening reports, including the screening report at issue in this case, are issued for tenant screening purposes [See Complaint ¶¶ 20,21,23,24,&29], and that said tenant screening reports contain public record information inclusive of public court records about criminal cases. [See Complaint ¶ 21, and Complaint Exb. "1"].

Plaintiff then alleges that on or about February 5, 2010, TSP furnished a tenant screening report to Affirmed Housing Group in response to Plaintiff's application to seek housing at a development owned by Affirmed Housing Group named Maple Square. [See Complaint ¶¶ 23,24]. A copy of the subject tenant screening report is attached to the Complaint as Exhibit "1" [Complaint ¶ 25; Complaint Exb. "1"].

According to the Complaint, said tenant screening report contained truthful factual information from public court records regarding Plaintiff's criminal history. [Complaint ¶¶ 26,27,28; Complaint Exb. "1"]. Specifically, said tenant screening report truthfully reported that on or about 5-16-00, Plaintiff was charged in a misdemeanor complaint containing Case Number 188935 with being "under the influence of a controlled substance", and that said case was dismissed some four years later on 3-2-04 (presumably pursuant to *Penal Code* § 1203.4 after a guilty plea was entered and probation served). [See Complaint ¶¶ 26,27; Complaint Exb. "1"].

Additionally, said tenant screening report truthfully reported that on or about 6-4-06, Plaintiff was charged in a misdemeanor complaint containing Case Number 217842 with: Count 1 Burglary in the 2nd degree, Count 2 Forgery, and Count 3 Embezzlement constituting theft by a non-caretaker from an older or dependent adult. On 6-7-06, as part of a plea deal, the criminal case was disposed of by Plaintiff pleading "Guilty" to Count 3 in exchange for the dismissal of Counts 1 and 2. [See Complaint

Case No.: BC478220
File No.: 5.371.001

¶ 28; Complaint Exb. "1"]. Said plea of "Guilty" resulted in Plaintiff receiving the lenient sentence of 60 days in jail followed by 3 years probation and a fine of \$500. [See Complaint ¶ 28; Complaint Exb. "1"]. As such, it is without question that misdemeanor complaint number 217842 resulted in a conviction.

By attaching the subject tenant screening report to the operative Complaint, Plaintiffs have also established that said public criminal court record information was reported along side Plaintiff's unenviable credit history consisting of 4 collection accounts with: Mediacredit in 2008 for \$3,345.00; AT&T West in 2009 for \$66.00; Mel Ramstead Metzger Management in 2007 for \$298.00; and Bank of The West in 2006 for \$302.00. [See Complaint Exb. "1"].

The Complaint, then makes the false legal conclusion that such tenant screening reports are entirely regulated under the California Investigative Consumer Reporting Agencies Act ("ICRAA") [Complaint ¶ 1], and are thus Investigative Consumer Reports ("ICR" singular; "ICRs" plural). [Complaint ¶ 25]. This statement is legally false on its face: Tenant screening reports that contain such public court records are actually Consumer Credit Reports ("CR" singular; "CRs" plural) regulated by the California Consumer Credit Reporting Agency Act ("CCRAA") [See *U.D. Registry v. State of California* (2006) 144 Cal.App.4th 405, 410 ("Plaintiff is a credit reporting agency that issues consumer credit reports within the meaning of section 1785.3, subdivisions (c) and (d) of the Consumer Credit Reporting Agencies Act (the act). (§ 1785.2 et seq.) Plaintiff collects credit-related public record information about individuals including unlawful detainer, foreclosure, bankruptcy, and tax lien data. Plaintiff sells consumer credit reports to its members—landowners, property managers, and others. Plaintiff's members consider the reports in deciding whether to lease real property to prospective tenants."); *U.D. Registry, Inc. v. State of California* (1995) 34 Cal.App.4th 107, 109 ("UDR gathers information regarding unlawful detainer cases from municipal and superior court files, and sells that information to subscribers, including the Apartment Association. Both plaintiffs are credit reporting agencies within the meaning of section 1785.13.")].

The distinguishing factor between a CR controlled by CCRAA and an ICR controlled by ICRAA is that a CR is a report that provides information "bearing on a consumer's credit worthiness, credit standing, or credit capacity, which is used...for the purpose of serving as a factor in establishing the consumer's eligibility for ... hiring of a dwelling unit..." [Civ. Code § 1785.3(c)]. In contrast, an

1 ICR is a report "in which information on a consumer's character, general reputation, personal
2 characteristics, or mode of living is obtained through any means." [Civ. Code § 1786.2(c)].

3 Despite this distinction between an ICR and a CR, Plaintiff alleges that the subject tenant
4 screening report that Plaintiff attached to the Complaint as Exhibit "1" is an ICR because it contains
5 information about Plaintiff's "general reputation, character, mode of living or other personal
6 characteristics." [Complaint ¶¶ 21,24]. However, this claim is also false as a matter of law, as it is
7 made in direct contradiction of what the subject report actually says. Specifically, the subject tenant
8 screening report attached to the Complaint says nothing about, nor does it make any conclusion or
9 deduction concerning, Plaintiff's "general reputation" (e.g., what people in the community think about
10 Plaintiff), "character" (e.g., Plaintiff's moral fiber), "mode of living" (e.g., how Plaintiff supports
11 himself) or other "personal characteristics" (e.g., Plaintiff's height, hair color, etc.). [See Complaint
12 Exb. "1"]. As such, Plaintiff's allegations that the subject tenant screening report is an ICR is directly
13 contradicted by Exhibit "1" to the Complaint, which otherwise controls over any contrary allegations
14 in the Complaint for purposes of ruling on a demurrer. [See *Mead v. Sanwa Bank California* (1998) 61
15 Cal.App.4th 561, 567-568; see *Breneric Associates v. City of Del Mar* (1998) 69 Cal.App.4th 166,
16 180].

17 Recognizing this deficiency, Plaintiff alleges that the subject tenant screening report is an ICR
18 because it includes public criminal court records, which automatically constitute information on
19 Plaintiff's "general reputation, character, mode of living or other personal characteristics." [Complaint
20 ¶¶ 21,24]. However, case law dictates such is not the case, and that to imply otherwise makes the entire
21 ICRAA under such circumstance void for being unconstitutionally vague. [See *Trujillo v. First*
22 *American Registry, Inc.* (2007) 157 Cal.App.4th 628, 640; *Ortiz v. Lyon Management Group, Inc.*
23 (2007) 157 Cal.App.4th 604, 615-619].

24 Specifically, public criminal court records, like public unlawful detainer court records, are
25 items of information that may be expressly included in a CR to determine a consumer's credit
26 worthiness or capacity [see Civ. Code § 1785.13] as well as in an ICR to determine general reputation
27 or character information [Civ. Code § 1786.18]. As such, the mere presence of such information in a
28 tenant screening report, without more, cannot be a determining factor as to whether CCRAA or
ICRAA govern the subject tenant screening report. As such, the Appellate Courts have determined that

Case No.: BC478220
File No.: 5.371.001

1 ICRAA is unconstitutionally vague and is otherwise void concerning the reporting of such public
 2 records. [See *Trujillo v. First American Registry, Inc.* (2007) 157 Cal.App.4th 628, 640; *Ortiz v. Lyon*
 3 *Management Group, Inc.* (2007) 157 Cal.App.4th 604, 615-619].

4 Nevertheless, Plaintiff alleges that the reporting of such truthful public record information
 5 about dismissed criminal charges is prohibited under ICRAA and caused his application to be denied
 6 [Complaint ¶ 29].¹ As such, Plaintiff alleges that he was damaged by losing a housing opportunity (to
 7 which Plaintiff does not allege an automatic entitlement) and by having to “spend time, money and
 8 energy to clean up” TSP’s truthful reporting of public records. [Complaint ¶ 4]. Remarkably, the
 9 Complaint contains no allegation that TSP ever took any money or property *from Plaintiff* that is
 10 subject to disgorgement, or that Plaintiff ever directly gave TSP money or property. Thus, as a matter
 11 of law, Plaintiff has failed to allege any standing to sue for Unfair Business Practices (“UBP”) [*Bus. &*
 12 *Prof. Code* § 17200], let alone a violation of any statute in light of the fact that ICRAA does not apply
 13 to this case. As such, all of Plaintiff’s causes of action fail as a matter of law.

14 2. LEGAL ARGUMENT

15 A. STANDARD ON DEMURRER

16 “A demurrer properly is granted when the pleadings fail to state facts sufficient to constitute a
 17 cause of action.” [*Washington v. County of Contra Costa* (1995) 38 Cal.App.4th 890, 895]. In
 18 determining whether the complaint alleges sufficient facts, the Court should consider the facts alleged
 19 on the face of the complaint, as well as matters that may be judicially noticed. [*Locton v. O’Rourke*
 20 (2010) 184 Cal.App.4th 1051, 1056]. Facts “appearing in the exhibits attached to the complaint” may
 21 also be considered, along with matters outside the pleading that are subject to judicial notice. [*Picton v.*
 22 *Anderson Union High School District*, (1996) 50 Cal.App.4th 726, 730; *Fontenot v. Wells Fargo Bank,*
 23 *N.A.* (2011) 198 Cal.App.4th 256, 264]. To the extent that the facts in the exhibits contradict the
 24 allegations in a complaint, the facts in the exhibit control for purposes of ruling on a demurrer. [See
 25 *Mead v. Sanwa Bank California* (1998) 61 Cal.App.4th 561, 567-568; see *Breneric Associates v. City*
 26 *of Del Mar* (1998) 69 Cal.App.4th 166, 180].

27 ¹ It is important to note that the Complaint does not allege that Plaintiff’s application for Maple Square would have
 28 otherwise been accepted despite the criminal conviction that was reported, which Plaintiff’s Complaint concedes was
 proper even under ICRAA, or the four collection accounts that were reported – one of which is being pursued by a
 management company.

1 Facts not alleged in the complaint or its attachments are "presumed not to exist." [*C&H Foods,*
 2 *Co. v. Hartford Insurance Co.* (1984) 163 Cal.App.3d 1055, 1062]. Significantly, "contentions,
 3 deductions or conclusions of fact or law alleged in the complaint are not considered in judging its
 4 sufficiency." [*Id.*; see *Bradler v. Craig* (1969) 274 Cal.App.2d 466, 475 (disregarding conclusory
 5 allegations in sustaining demurrer)].

6 **B. THE HISTORY OF CCRAA AND ICRAA**

7 In 1975, California enacted a dual statutory scheme for the regulation of the consumer
 8 reporting industry in this State. "[W]hen California enacted its own version of the [federal] act in 1975,
 9 it drew a distinction between 'consumer credit reporting agencies' and 'investigative consumer
 10 reporting agencies.' The former were covered by CCRAA, the latter under ICRA[A]." [*Cisneros v.*
 11 *The U.D. Registry, Inc.* (1995) 39 Cal.App.4th 548, 559].

12 Because the California Legislature divided the regulation of consumer reporting agencies into
 13 CCRAA and ICRAA, the federal definition of consumer report was similarly divided. [Compare *Civ.*
 14 *Code*, § 1785.3(c) & *Civ. Code* § 1786.2(c) with 15 USC § 1681a(d)]. CCRAA governed "consumer
 15 credit reports," defined as "any written, oral, or other communication of any information by a
 16 consumer credit reporting agency bearing on a consumer's credit worthiness, credit standing, or credit
 17 capacity . . ." [*Civ. Code*, former § 1785.3(c)]. ICRAA by comparison, governed "investigative
 18 consumer reports," which, until 1999, were defined as "a consumer report in which information on a
 19 consumer's character, general reputation, personal characteristics, or mode of living is obtained
 20 through personal interviews with neighbors, friends, or associates of the consumer reported on, or
 21 others with whom he or she is acquainted or who may have knowledge concerning any of these items
 22 of information." [*Civ. Code*, former § 1786.2(c)].

23 In order to effectuate the distinction between the two statutory schemes, the definition of a
 24 consumer credit report *expressly excludes* ICRs. A "consumer credit report" under CCRAA does not
 25 include "any report containing information solely on a consumer's character, general reputation,
 26 personal characteristics, or mode of living which is obtained through personal interviews with
 27 neighbors, friends or associates of the consumer reported on, or others with whom he is acquainted or
 28 who may have knowledge concerning those items of information." [*Civ. Code* § 1785.3(c)]. Likewise,
 an ICR "does not include a consumer report or other compilation of information which is limited to

1 specific factual information relating to a consumer's credit record or manner of obtaining credit
 2 obtained directly from a creditor of the consumer or from a consumer reporting agency when that
 3 information was obtained directly from a potential or existing creditor of the consumer or from the
 4 consumer. [*Civ. Code* § 1786.2(c)].

5 CCRAA, at its inception, applied to consumer credit reports used to determine eligibility for
 6 credit for personal, family or household purposes, or employment purposes, insurance, licensing and
 7 other legitimate purposes. [*Civ. Code* § 1785.3(c), *Civ. Code* § 1785.11]. ICRAA, in turn, applied to
 8 applications for employment purposes and for insurance for personal, family or household purposes.
 9 [*Civ. Code* § 1786.2(b)].

10 In addition, both CCRAA and ICRAA expressly authorize the reporting of unlawful detainer
 11 actions and public criminal court records. [see *Civ. Code* § 1785.13(a)(3)&(6); also see *Civ. Code*
 12 § 1786.18(a)(4)&(7)]. ²

13 In 1982, the Legislature added "hiring of a dwelling unit" to both CCRAA and ICRAA, thereby
 14 regulating the use of consumer credit reports and investigative consumer reports to determine a
 15 prospective tenant's eligibility for rental housing (i.e., tenant screening reports). [*Civ. Code*
 16 §§ 1785.1(d); 1785.3(a)(3); 1785.3(c)(3); 1785.11(a)(3)(E); 1786(a); 1786(f); 1786.2(b); and
 17 1786.12(d)(5)].

18 The 1982 amendments maintained the clear distinction between CRs and ICRs by
 19 contemplating and providing for the possible use of both reports in connection with a prospective
 20 tenant's eligibility for rental housing:

21 [SB 1406] would include within the term 'consumer credit report' any communication of any
 22 information by a consumer credit reporting agency bearing on a consumer's credit
 23 worthiness, credit standing, or credit capacity which is used or expected to be used, or
 24 collected in whole or in part, for the purpose of serving as a factor in establishing the
 25 consumer's eligibility for the hiring of a dwelling unit, for purposes of the Consumer Credit
 26 Reporting Agencies Act; and would include the hiring of a dwelling unit as an activity which
 27 would cause a person who meets other specified criteria to be a 'consumer' or an

28 ² In 1995, the Court of Appeal declared *Civ. Code* § 1785.13(a)(3) unconstitutional to the extent it limited the information
 obtained from court records that a consumer reporting agency may report regarding a tenant's involvement in an unlawful
 detainer action. [*U.D. Registry, Inc. v. State of California* (1995) 34 Cal.App.4th 107, 116]. Under the Court's reasoning
 therein, any limitation or prohibition on the reporting of any public court records is likewise unconstitutional. [See for
 example *U.D. Registry v. State of California* (2006) 144 Cal.App.4th 405].

1 'investigative consumer reporting agency' for purposes of the Investigative Consumer
2 Reporting Agencies Act.

3 [Legislative Counsel's Digest of Senate Bill 1406 (1981-1982 Reg. Sess.) as introduced on February 1,
4 1982]. Thus, since the enactment of CCRAA and ICRAA, the Legislature has maintained the
5 distinction between consumer CRs and ICRs and expressly recognized that reports on unlawful
6 detainer actions and criminal court cases, or information derived therefrom, might be included in both
7 kinds of reports, but are otherwise not the defining factor. Rather, it is the nature and subject matter of
8 the report, not simply the inclusion of information of unlawful detainer actions or criminal court cases
9 that is determinative of its classification. Each classification is then subject to its own set of regulatory
10 provisions.

11 The distinction between the two types of reports took center stage in a 1995 decision of the
12 Court of Appeal. There, the court addressed whether "[the] practice of soliciting written comments
13 from its subscriber landlords concerning tenants' treatment of rental premises, then passing that
14 information on to other subscribers, brings it under ICRA[A]." [*Cisneros*, 39 Cal.App.4th at 567].
15 The Court of Appeal noted that "[t]he issue is significant because ICRA[A] imposes stricter notice and
16 verification requirements than CCRAA." [*Id.*] The Court of Appeal in *Cisneros* concluded that the
17 reports the tenant screening agency assembled and disseminated were not "investigative consumer
18 reports" because the information it received from the landlords was not obtained through "personal
19 interviews." [*Cisneros*, 39 Cal.App.4th at 569]. The appellate court reasoned that the landlords
20 obtained the information through personal observation of the premises and petitioner obtained the
21 information by means of written responses to forms, not personal interviews. [*Id.*]

22 However, in 1998, the Legislature deleted the "personal interview" requirement for ICRs and
23 revised *Civ. Code* § 1786.2(c) to permit ICR to include information on character, general reputation,
24 personal characteristics, or mode of living obtained through "any means." [*Civ. Code* § 1786.2(c)].³
25 The purpose of the amendment was to broaden the means by which reputation and character
26 information included in an ICR might be obtained.

27 ³ The Legislature failed to similarly amend the *Civil Code* § 1785.3(c) exclusion of investigative consumer reports from the
28 definition of consumer credit reports.

C. THE ATTACHED REPORT IS NOT AN ICR AS A MATTER OF LAW, AND THUS THE ENTIRE COMPLAINT FAILS TO STATE A CAUSE OF ACTION FOR VIOLATION OF ICRAA

As stated above, the distinguishing factor between a CR controlled by CCRAA and an ICR controlled by ICRAA is that a CR is a report that provides information "bearing on a consumer's credit worthiness, credit standing, or credit capacity, which is used...for the purpose of serving as a factor in establishing the consumer's eligibility for ... hiring of a dwelling unit..." [Civ. Code § 1785.3(c)]. In contrast, an ICR is a report "in which information on a consumer's character, general reputation, personal characteristics, or mode of living is obtained through any means." [Civ. Code § 1786.2(c)]. CRs and ICRs are supposed to be mutually exclusive [See Civ. Code § 1785.3(c); Civ. Code § 1786.2(c); See *Ortiz v. Lyon Management Group, Inc.* (2007) 157 Cal.App.4th 604, 614-615 ("any one item of information may be classified as either creditworthiness or character information, but not both.")].

Here, the subject tenant screening report attached to the Complaint says nothing about, nor does it make any conclusion or deduction concerning, Plaintiff's "general reputation" (e.g., what people in the community think about Plaintiff), "character" (e.g., Plaintiff's moral fiber), "mode of living" (e.g., how Plaintiff supports himself) or other "personal characteristics" (e.g., Plaintiff's height, hair color, etc.). [See Complaint Exb. "1"]. As such, the subject tenant screening report is not an ICR and ICRAA has no application to this case. Any other finding by this Court would make ICRAA unconstitutionally vague and unenforceable (see argument below).

Since every cause of action alleged in the Complaint is wholly reliant upon the application of ICRAA, Plaintiff has thus failed to state any cause of action against TSP. Therefore, this Demurrer must be sustained without leave to amend.

1) The Mere Presence Of Public Criminal And Civil Court Records Does Not Make A Tenant Screening Report An ICR, Or Else ICRAA Becomes Unconstitutionally Vague As A Matter of Law.

As stated above, public criminal court records, like public unlawful detainer court records, are items of information that may be expressly included in a CR to determine a consumer's credit worthiness or capacity [see Civ. Code § 1785.13] as well as in an ICR to determine general reputation or character information [Civ. Code § 1786.18]. As such, the mere presence of such information in a tenant screening report (or lack thereof), without more, cannot be a determining factor as to whether

1 CCRAA or ICRAA govern the subject tenant screening report.⁴ However, should this Court believe
 2 that public court records are inherently character/general reputation information, then the Appellate
 3 Courts have already determined that ICRAA is unconstitutionally vague and is otherwise void. [See
 4 *Trujillo v. First American Registry, Inc.* (2007) 157 Cal.App.4th 628, 640; *Ortiz v. Lyon Management*
 5 *Group, Inc.* (2007) 157 Cal.App.4th 604, 615-619].

6 Specifically, Appellate Courts have already held that ICRAA is unconstitutionally vague, and
 7 thus is unenforceable in its entirety, when public court unlawful detainer records are present in a tenant
 8 screening report.

9 “the ICRAA is unconstitutionally vague as applied to tenant screening reports containing
 10 unlawful detainer information. The statute governs reports containing “information on a
 11 consumer’s character, general reputation, personal characteristics, or mode of living ...
 12 obtained through any means.” (§ 1786.2, subd. (c).) Plaintiffs asserts their tenant screening
 13 reports are subject to the ICRAA because they indicated unlawful detainer actions had been
 14 filed against them, and thus contained “character information.”

15 As we explain in a companion case, the ICRAA is unconstitutionally vague because persons
 16 of reasonable intelligence cannot determine whether unlawful detainer information is
 17 character information subject to the ICRAA or creditworthiness information subject to
 18 the CCRAA. (*Ortiz v. Lyon Management Group, Inc.* (2007) 157 Cal.App.4th 604 (*Ortiz*).)
 19 The Legislature intended to differentiate between character information and creditworthiness
 20 information, but ever since a 1998 ICRAA amendment, it is hopelessly uncertain on
 21 which side of the fence unlawful detainer information falls. (*Id.* at pp. 615-619.)
 22 Accordingly, defendant is entitled to summary adjudication on the ICRAA claims.”
 23 [*Trujillo v. First American Registry, Inc.* (2007) 157 Cal.App.4th 628, 640 (footnote omitted)].

24 With regard to unlawful detainer information, the Court in *Ortiz v. Lyon Management Group,*
 25 *Inc.* (2007) 157 Cal.App.4th 604 stated that such could arguable be classified as information on
 26 creditworthiness or character. [*Id.* at 617-619]. Despite this overlap, the Court stated that prior to the
 27 1998 amendment, the distinction between a CR and an ICR was still clear because of the personal
 28 interview component. [*Id.* at 616]. However, when the legislature removed the personal interview
 component, it made ICRAA unconstitutionally vague [*Id.* at 617].

25 ⁴ By way of example, the reporting of the absence of unlawful detainer cases or criminal court cases, likewise, says nothing
 26 specifically about a person’s character or general reputation. Yet reporting the absence of information is still information
 27 being reported. [See *Ortiz v. Lyon Management Group, Inc.* (2007) 157 Cal.App.4th 604, 612 fn.3]. However, there are
 28 plenty of bad people in this world that have never been a defendant in an eviction case or criminal matter, just like there are
 many good people in this world that have been a defendant in such cases due to being the victim of hard times or poor
 choices as an adolescent.

1 This statutory scheme—two separate statutes governing two kinds of tenant screening reports
 2 depending on the type of information they contain—indicates a legislative intent to
 3 distinguish between creditworthiness information and character information. (See *Dyna-Med*,
 4 *supra*, 43 Cal.3d at pp. 1386–1387 [statutes must be harmonized].) Nothing in the statutes
 5 suggests any *one* item of information may constitute *both* creditworthiness and character
 6 information such that it alone subjects a tenant screening report to *both* statutes. Rather, any
 7 one item of information may be classified as either creditworthiness or character information,
 8 but not both. Construing the two statutes to govern discrete items of information harmonizes
 9 the statutes, rather than collapsing them into one. (*Ibid.*)

10 While the statutes require a distinction between creditworthiness and character information,
 11 the line between the two is not readily apparent. On the one hand, a consumer's
 12 creditworthiness *itself* pertains to the consumer's character or personal characteristics.
 13 Creditworthiness is a personal attribute, the quality of being "financially sound enough that a
 14 lender will extend credit in the belief that the chances of default are slight; fiscally healthy."
 15 (Black's Law Dict. (7th ed. 1999) p. 377, col. 1.) Creditworthiness information is a *type* of
 16 character information. On the other hand, certain types of character information may also
 17 constitute creditworthiness information. Information that a consumer has the character traits
 18 or personal characteristics of (or a general reputation for) dishonesty, profligacy, carelessness,
 19 or absentmindedness would reasonably relate to the consumer's financial soundness,
 20 likelihood of default, or fiscal health. At least these types of character information pertain to
 21 the consumer's creditworthiness.

22 [*Id.* at 614-615 (italics in original)]. As such, the *Ortiz* Court concluded:

23 Our challenge arises not because unlawful detainer information is somehow paradoxical, but
 24 because the statutory scheme fails to set forth truly distinct categories. It presents a false
 25 dichotomy between creditworthiness and character. The ICRAA's nebulous reference to
 26 character information, as applied to tenant screening reports containing unlawful detainer
 27 information, is unconstitutionally vague.

28 [*Id.* at 612-613]

We are left with no rational basis to determine whether unlawful detainer information
 constitutes creditworthiness information subject to the CCRAA or character information
 subject to the ICRAA. We doubt any "person of ordinary intelligence" can do so either.
 (*Cranston, supra*, 40 Cal.3d at p. 763.) Rather, credit reporting agencies and landlords "must
 necessarily guess at [the ICRAA's] meaning and differ as to its application." (*Connally*,
supra, 269 U.S. at p. 391.) Worse, landlords must make their guesses when they request
 tenant screening reports, *before* they learn whether the report will contain any unlawful
 detainer information or exactly what kind of unlawful detainer information it will include.
 (See § 1786.16 [listing conditions that must be met *before* procuring investigative consumer
 reports].)

The ICRAA thus fails to provide adequate notice to persons who compile or request tenant
 screening reports that may contain unlawful detainer information. (*Gallo, supra*, 14 Cal.4th
 at p. 1115 [noting "the core due process requirement of adequate notice"]; *Lockheed, supra*,
 28 Cal.2d at p. 484 ["A statute should be sufficiently certain so that a person may know what
 is prohibited thereby and what may be done without violating its provisions ..."].) The 1998
 amendment rendered the ICRAA unconstitutional as applied to tenant screening reports
 containing unlawful detainer information. Accordingly, the court correctly granted summary
 judgment to defendant.

[*Id.* at 619 (italics in original)].

1 Criminal court records, like unlawful detainer information, may also hint toward a person's
 2 credit capacity (e.g., the ability to get a job, the payment of criminal fines, the lack of a criminal
 3 history, etc.) while also implying something about the person's character (e.g., dishonest, violent, etc.),
 4 but not necessarily so. One would not know until after the requested report came back, which very well
 5 may fail to contain any such information. However, it is exactly for this reason that the Court in *Ortiz*
 6 found ICRAA to be unconstitutionally vague.

7 Therefore, for the exact same reason that the reporting of unlawful detainer court information
 8 (or lack thereof) cannot be found to constitute an ICR, criminal court information (or the lack thereof)
 9 likewise cannot alone implicate ICRAA. As such, Plaintiff has failed to state a single cause of action in
 10 the Complaint against TSP, and this Demurrer should be sustained without leave to amend.

11 **D. ALL ICRAA AND CCRAA STATUTES THAT IN ANY WAY RESTRICT THE**
 12 **REPORTING OF TRUTHFUL PUBLIC RECORD INFORMATION IN ANY MANNER**
 13 **ARE UNCONSTITUTIONAL AS A MATTER OF LAW AND CANNOT BE THE**
 14 **BASIS OF A VIOLATION OF ICRAA OR CCRAA.**

15 Plaintiff may try to argue that the reporting of a criminal court case that was ultimately
 16 dismissed constitutes a violation of CCRAA as well [See *Civ. Code* § 1785.13(a)(6)], and as such,
 17 Plaintiff should be given leave to amend to allege a CCRAA claim. This anticipated argument fails for
 18 two distinct reasons: First, the criminal records at issue indicate that a conviction was obtained in both
 19 criminal cases at issue; and second, any limitation on the reporting of any truthful information derived
 20 from court records is unconstitutional as a matter of law.

21 To begin, reported Criminal Case 217842 did result in a conviction for which Plaintiff was
 22 sentenced to 60 days in jail and 3 years of probation. The fact that certain counts were dismissed as
 23 part of a plea deal is irrelevant: The entire case is reportable under *Civ. Code* § 1785.13(a)(6) since the
 24 "case" resulted in a conviction.

25 Further, although the criminal case 188935 resulted in its ultimate dismissal, such dismissal
 26 came 4 years after Plaintiff was charged with being under the influence of a controlled substance. As
 27 such, the dismissal appears to be related to the successful completion of a standard 3-year probation
 28 after a plea of guilty pursuant to *Penal Code* § 1203.4. Absent the application of *Penal Code* § 1203.4,
 or some other similar statute, there can be no other plausible explanation as to why a constitutionally
 time sensitive criminal case was dismissed 4 years after the misdemeanor charge was filed. As such,

Case No.: BC478220
 File No.: 5.371.001

1 said case surely resulted in a conviction, which according to *Civ. Code* § 1785.13(a)(6) only becomes
 2 prohibited from being included in a CR upon a "full pardon" – not upon an ultimate dismissal pursuant
 3 to a plea deal or *Penal Code* § 1203.4.

4 However, even if the dismissal of said criminal cases would make it not reportable under *Civ.*
 5 *Code* § 1785.13(a)(6), the restrictions of reporting truthfully such public court records contained
 6 therein are unconstitutional as a matter of law.

7 Specifically, in 1995, the Court of Appeal declared *Civ. Code* § 1785.13(a)(3) unconstitutional
 8 to the extent it limited the information obtained from court records that a consumer reporting agency
 9 may report regarding a tenant's involvement in an unlawful detainer action. [*U.D. Registry, Inc. v.*
 10 *State of California* (1995) 34 Cal.App.4th 107, 116]. The Court stated:

11 Concern about the availability of rental housing for those needing housing, and particularly
 12 those facing eviction, is a valid and significant state interest. But it does not justify a ban on
 13 publication by credit reporting agencies of lawfully obtained truthful information
 14 contained in court records open to the perusal of everyone. The information is in the
 15 custody of the state. If the state is concerned about dissemination of this information, it has
 16 the power to control its initial release. As explained in *Florida Star, supra*, the government
 17 may classify the information, establish procedures for its redacted release, and extend a
 18 damages remedy against the government if the government's mishandling of sensitive
 19 information leads to its dissemination. "Where information is entrusted to the
 20 government, a less drastic means than punishing truthful publication almost always
 21 exists for guarding against the dissemination of private facts." (491 U.S. at p. 534 [105
 22 L. Ed. 2d at pp. 455-456].)

23 Section 1785.13, subdivision (a)(3) contains the same flaw found in the *Daily Mail* and
 24 *Florida Star* cases--the restriction against dissemination is limited to one type of publication,
 25 thereby failing to achieve its purpose of protecting the subject from other modes of broadcast
 26 of the same information. In *Daily Mail*, the restriction applied only to newspapers; in *Florida*
 27 *Star*, it applied only to "any instrument of mass communication"; in our case, the restriction
 28 applies only to consumer credit reporting agencies. In all three instances, the information can
 be disseminated in countless other ways. No justification is advanced for limiting one
 form of dissemination while permitting broadcast of the same information by other
 methods.

[*Id.* at 114 -115].

As suggested by several of the opinions we have discussed, there are any number of things
 the state may lawfully do to protect renters who are subject to or who have suffered an
 eviction. What it cannot do is to act in violation of the Constitution. That is the effect of
 section 1785.13, subdivision (a)(3), the statute before us. We conclude it violates the First
 Amendment, and therefore is unconstitutional. The trial court was right to so declare.

[*Id.* at 116].

Likewise, in *U.D. Registry v. State of California* (2006) 144 Cal.App.4th 405, the Appellate
 Court found that any prohibition or curtailment in CCRAA (and specifically *Civ. Code* § 1785.11.2

1 that prohibited the reporting of any information, including public court record information such a
 2 criminal reports) that in anyway interfered with the truthful reporting of public court records by a
 3 tenant screening company *in any manner* was inherently unconstitutional, especially since public court
 4 records are readily available to all members of the public through a multitude of other sources.

5 We conclude that section 1785.11.2 is unconstitutional as applied to plaintiff who, the agreed
 6 facts prove, provides credit reports drawn in material part from public records including
court documents.

7 [*Id.* at 410 (emphasis added)].

8 Defendants do not dispute that section 1785.11.2 prevents plaintiff from disseminating
 9 information about unlawful detainer, bankruptcy, tax lien, foreclosure, and other public
proceedings against individuals; all of it secured from public records. The bulk of the
 10 sources of records referred to on plaintiff's Web site are publicly produced documents. Nor
 11 do defendants dispute the public nature of that information; it is available to members of the
public without resort to plaintiff's reports. Moreover, preventing plaintiff from
 12 disseminating *all* of the public record information does not serve the asserted state interest.
 13 The knowledge that an individual has been the subject of an unlawful detainer action by a
 14 lessor, a tax lien imposed by the government, or a foreclosure action by a lender does not
 15 facilitate identity theft. Even if that information could be of some use to a potential identity
 16 thief, it would be available without resort to plaintiff's credit reports.

17 [*Id.* at 424-425 (emphasis added)].

18 As held by both *U.D. Registry* cases above, there can be no compelling state interest in
 19 suppressing the truthful reporting by tenant screening companies of any information derived from
 20 public court records. Thus, case law has consistently held that regardless of whether Plaintiff attempts
 21 to apply the restrictions set forth in ICRAA or CCRAA that in any way curtail a tenant screening
 22 company's reporting of public court records available to the public through a multitude of other
 23 sources (i.e., criminal court case information), such restrictions are unconstitutional as a matter of law
 24 and cannot be legally enforced by any Court in this State.

25 Therefore, as Plaintiff's complaint is entirely based on unconstitutional statutes prohibiting the
 26 reporting of certain public court case information, and as any potential amendment to the Complaint
 27 would likewise seek an unconstitutional restriction on the reporting of public court case information,
 28 Plaintiff has failed to plead a single cause of action in the operative complaint. As such, this Demurrer
 must be sustained without leave to amend.

E. PLAINTIFF LACKS STANDING TO BRING A UBP CLAIM.

1) Since The ICRAA Does Not Apply To This Case, No Violation of Any Statute Has Been Alleged.

A UBP claim requires an independent violation of law. [*Kasky v. Nike, Inc.* (2002) 27 Cal.4th 939, 949]. An unlawful business activity includes anything that can properly be called a business practice and that at the same time is forbidden by law. [*Korea Supply Co. v. Lockheed Martin Corp.* (2003) 29 Cal.4th 1134, 1143]. In essence, an action based on UBP under the "unlawful" prong borrows violations of other laws by making them independently actionable as unfair competitive practices. [*Id.*].

The Complaint specifically states that the UBP causes of action are exclusively relying upon its previous allegations involving alleged ICRAA violations. However, as stated above, ICRAA has no legal application in this case. Thus, as a matter of law, no violation of law has been pled, and Plaintiff's UBP claims must be dismissed. [See *Ortiz v. Lyon Management Group, Inc.* (2007) 157 Cal.App.4th 604, 619 fn. 12 ("Plaintiff asserted the ICRAA violations also violated the unfair competition law. (Bus. & Prof. Code, § 17200.) Because Plaintiff's unfair competition claim piggybacks on her ICRAA claim, the court correctly granted summary judgment on it as well.")].

2) No Money Or Property Subject To Restitution Has Been Alleged To Establish Standing To Plead A UBP Claim.

Despite the fact that Plaintiff has failed to establish that any law has been violated, Plaintiff has also failed to plead that he has proper standing to assert a UBP claim because he has not lost any money or property to TSP subject to disgorgement.

"Proposition 64 restricted standing to assert a [UBP] cause of action to plaintiffs " 'who [have] suffered injury in fact and [have] lost money or property as a result of such unfair competition.' " (*Californians for Disability Rights v. Mervyn's, LLC* (2006) 39 Cal.4th 223, 228 (*Californians for Disability Rights*) [discussing Prop. 64's amendment to Bus. & Prof. Code, § 17204].)" [*Trujillo v. First American Registry, Inc.* (2007) 157 Cal.App.4th 628, 639].

"Because remedies for individuals under the [unfair competition law] are restricted to injunctive relief and restitution, the import of the [Business and Professions Code section 17204 loss of money or property] requirement is to limit standing to individuals who suffer losses of money or property that are eligible for restitution." (*Buckland v. Threshold Enterprises, Ltd.*, supra, 155 Cal.App.4th at p. 817; see *Walker v. USAA Cas. Ins. Co.* (E.D.Cal. 2007) 474 F.Supp.2d 1168, 1172.) As Citizens could not allege having suffered losses which would entitle it to restitution, it has no standing to pursue a cause of action for unfair competition.

1 [Citizens of Humanity, LLC v. Costco Wholesale Corp. (2009) 171 Cal.App.4th 1, 22-23 (emphasis
2 added)].

3 Here, Plaintiff claims he was denied housing by his application being denied. [Complaint ¶
4 29]. However, because Plaintiff had to apply to be accepted into said housing, the housing was not his
5 to lose, and as such had no entitlement to it.

6 Further, the only other monetary damages Plaintiff claims to have suffered are the "time,
7 money, and energy to clean up after Defendant's errors." [Complaint ¶ 4]. But Plaintiff fails to allege
8 that any of that money was given directly by Plaintiff to TSP. As such, Plaintiff has lost no moneys
9 subject to the remedy of restitution. Further, Plaintiff cannot seek restitution of TSP's profits either,
10 despite demanding same in the Complaint [See Complaint ¶¶ 47,53]. A defendant cannot be ordered to
11 disgorge profits to an individual plaintiff if those profits were not taken from the plaintiff or if the
12 plaintiff does not otherwise have an ownership interest in those profits, because disgorgement of
13 profits in the absence of an ownership interest by the plaintiff goes beyond the restitution that is
14 authorized by the statute [*Korea Supply Co. v. Lockheed Martin Corp.* (2003) 29 Cal.4th 1134, 1144-
15 1148; *see also Reid v. Google, Inc.* (2007) 155 Cal.App.4th 1342, 1351].

16 Thus, in addition to all of the other deficiencies identified in Plaintiff's Complaint, Plaintiff has
17 failed to allege proper standing to assert a UBP claim. As such, this Demurrer should be sustained
18 without leave to amend.

19 3. CONCLUSION

20 For the reasons stated herein, Plaintiff has failed to allege any cause of action against TSP.
21 Thus, TSP respectfully requests that this Demurrer be sustained without leave to amend.

22 Dated: March 7, 2012

Jacobson, Russell, Saltz & Fingerman LLP



23
24 Michael J. Saltz, Esq.
25 Attorneys for Defendant The Screening Pros, LLC
26
27
28

EXHIBIT “5”

THE LAW OFFICES OF DEVIN H. FOK
Devin H. Fok, Esq. (SBN #256599)
P.O. Box 7165
Alhambra, CA 91802-7165
Ph: (310) 430-9933
Fax: (323) 563-3445
devin@devinfoklaw.com

A NEW WAY OF LIFE REENTRY PROJECT
Joshua E. Kim, Esq. (SBN #257260)
P.O. Box 875288
Los Angeles, California 90087
Ph: (323) 563-3575
Fax: (323) 563-3445
joshua@anewwayoflife.org

Attorneys for Plaintiff
GABRIEL FELIX MORAN

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES**

GABRIEL FELIX MORAN,
Plaintiff,

vs.

THE SCREENING PROS, LLC, a California
corporation; and DOES 1-10 inclusive,
Defendants.

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

JUN 07 2012

John A. Clark, Executive Officer/Clerk
BY [Signature] Deputy
Shawna Wesley

CASE NO. BC478220

HON. STEVEN J. KLEIFIELD

**FIRST AMENDED COMPLAINT FOR
DAMAGES FOR VIOLATIONS OF:**

1. 15 U.S.C. §1681c
2. 15 U.S.C. §1681e
3. 15 U.S.C. §1681i(a)
4. Cal. Civ. Code §1786.18
5. Cal. Civ. Code §1786.20
6. Cal. Civ. Code §1786.24
7. Cal. Civ. Code §1786.12(e)
8. Cal. Civ. Code §1786.28(a)
9. Cal. Civ. Code §1786.29(a) and (b)
10. Unlawful Business Practices Pursuant
to Bus. & Prof. Code §17200 *et seq.*
11. Unfair Business Practice Pursuant to
Bus. & Prof. Code §17200 *et seq.*

JURY TRIAL DEMANDED

1
2 Plaintiff GABRIEL FELIX MORAN (hereafter as "Plaintiff") complains against
3 Defendants THE SCREENING PROS, LLC. (hereafter as Defendant "TSP"); and DOES 1-10
4 inclusive, and alleges as follows:

5
6 **NATURE OF THE ACTION**
7

8 1. People with conviction history face substantial barriers to reentry, including denial of
9 housing, which impedes their rehabilitative efforts.¹ "A reciprocal relationship exists between
10 incarceration and homelessness."² And "the ability to access safe and secure housing within the
11 community is crucial to their successful reentry."³ However, some studies show that a prior
12 incarceration rate among the homeless population is almost 50%.⁴

13 2. This wide discrimination against people with conviction history, antithetical to the
14 important public interest in their successful reentry, is due in part to routine background checks
15 run by private housing providers and a giant commercial industry that has emerged to fulfill this
16 demand for housing background checks.

17 3. As Congress stated under 15 U.S.C. §1681(a):

18 ***

19 (2) An elaborate mechanism has been developed for investigating and evaluating the
20 credit worthiness, credit standing, credit capacity, character, and general reputation of
21 consumers.

22 (3) Consumer reporting agencies have assumed a vital role in assembling and
23 evaluating consumer credit and other information on consumers.
24
25

26 ¹ A letter from the Secretary of the U.S. Dep't of Housing and Urban Development, *available at*
27 [http://www.nationalreentryresourcecenter.org/documents/0000/1344/3.30.12_MFamily_properties_Reent](http://www.nationalreentryresourcecenter.org/documents/0000/1344/3.30.12_MFamily_properties_Reentry_memo_6_2_.pdf)
ry_memo_6_2_.pdf (last visited on June 6, 2012).

28 ² *Reentry in Brief*, Federal Interagency Reentry Council (May 2011), at p.11, *available at*
29 http://www.nationalreentryresourcecenter.org/documents/0000/1059/Reentry_Brief.pdf (last visited on
June 6, 2012),

30 ³ *Reentry Housing Options: The Policy Makers' Guide*, Council of State Governments Justice Center
31 (2010), at p.vii, *available at* [http://reentrypolicy.org/jc_publications/reentry-housing-](http://reentrypolicy.org/jc_publications/reentry-housing-options/Reentry_Housing_Options.pdf)
options/Reentry_Housing_Options.pdf (last visited on June 6, 2012).

32 ⁴ *See Metraux & Culhane, Homeless Shelter Use and Reincarceration Following Prison Release: Assessing the Risk*, 3 *Criminology & Public Policy* 139 (2004).

1 8. Here, Defendant TSP issued reports relating to credit, unlawful detainer, and criminal
2 history. The central issues in this litigation are the various statutory violations relating to the
3 criminal history report on Plaintiff, issued by Defendant TSP.

4 9. Criminal history reports are regulated under the ICRAA because they are reports that
5 bear on a consumer's character, general reputation, personal characteristics, or mode of living
6 that are not limited to specific factual information relating to a consumer's credit record or
7 manner of obtaining credit obtained directly from a creditor of the consumer or from a consumer
8 reporting agency when that information was obtained directly from a potential or existing
9 creditor of the consumer or from the consumer within the meaning of Cal. Civ. C. §1786.2(c).

10 10. Both the FCRA and the ICRAA requires a background check company to follow
11 extremely stringent procedures to ensure that whenever criminal history information is reported,
12 it is relevant, accurate, complete, and up to date.

13 11. Obsolete or irrelevant criminal records information is prohibited from disclosure. This is
14 to alleviate the stigmatization and the negative collateral consequences of old and dated criminal
15 convictions and to promote successful reentry and rehabilitation of people with criminal records.

16 12. Under the FCRA, a background check company is prohibited from reporting arrests that
17 did not result in conviction that antedate the report by more than 7 years. (15 U.S.C. §1681c(a)).
18 ICRAA extends this prohibition to all arrests that did not result in conviction regardless of the
19 age of the conviction. (Cal. Civ. C. §1786.18(a)). Moreover, under both statutes and with limited
20 exceptions, any other adverse information that antedate the report by more than 7 years cannot be
21 reported. (See 15 U.S.C. §1681c(a); Cal. Civ. C. §1786.18(a)).

22 13. In addition to the prohibition in reporting obsolete criminal history information, strict
23 disclosure requirements are mandated under both statutes. The idea is to inform the consumer
24 that he or she is entitled to a copy of the report, to allow the consumer an opportunity verify the
25 accuracy of the information reported, and to dispute any information that is inaccurate,
26 incomplete, and/or not up to date. (Cal Civ. C. §§1786.28(a); 1786.29).

27 14. Upon a written dispute, the background check company is required to reinvestigate and
28 record the current status of the disputed information or delete the item from the file within 30-
29 days following the receipt of the dispute. (Cal. Civ. C. §1786.24(a); 15 U.S.C. §1681i).

30 15. Defendant TSP failed to abide by the restrictions and requirements set forth therein and
31 routinely provide screening reports and engage in practices that violate various provisions of
32 these governing statutes, including reporting dismissed charges that never resulted in conviction,

1 failing to provide required notices, and failing to reinvestigate submitted disputes relating to the
2 accuracy and completeness of the information reported.

3 16. Defendant TSP's violations, on information and belief, occur because Defendant TSP has
4 failed to properly apprise itself of statutory mandates before issuing background check reports,
5 failed to implement reasonable procedures to avoid the release of prohibited information, failed
6 to implement reasonable procedures to assure maximum possible accuracy of the information
7 contained in its reports; and failed to institute proper procedures to investigate disputed
8 information.

9 17. As a result of Defendant TSP's wrongful acts and omissions, Plaintiff has been injured,
10 including, without limitation, by virtue of having lost housing opportunities and by having been
11 forced to spend time, money, and energy to clean up after Defendant's errors.

12 18. Plaintiff seeks actual and/or compensatory damages, punitive damages, and equitable
13 relief, including costs and expenses of litigation, including attorney's fees, and appropriate
14 injunctive relief requiring Defendant to comply with its legal obligations, as well as additional
15 and further relief as may be appropriate. Plaintiffs reserve the right to amend this Complaint to
16 add additional relief as permitted under applicable law.

17 THE PARTIES

18
19
20 19. Plaintiff is, and at all times relevant herein was, a resident of Alameda County,
21 California.

22 20. Defendant TSP, is and at all times herein mentioned was, a California corporation with a
23 principal place of business in Los Angeles County, California.

24 21. Defendant TSP is an entity regulated under both the FCRA and the ICRAA.

25 22. For purposes of the FCRA, Defendant TSP is a "consumer reporting agency" as defined
26 under 15 U.S.C. §1681a(f) because it is a "person which, for monetary fees, dues...regularly
27 engages in whole or in part in the practice of assembling or evaluating consumer credit
28 information or other information on consumers for the purpose of furnishing consumer reports to
29 third parties, and which uses any means or facility of interstate commerce for the purpose of
30 preparing or furnishing consumer reports."

31 23. A "consumer report" is "any written, oral, or other communication of any information by
32 a consumer reporting agency bearing on a consumer's credit worthiness, credit standing, credit

1 capacity, character, general reputation, personal characteristics, or mode of living which is used
 2 or expected to be used or collected in whole or in part for the purpose of serving as a factor in
 3 establishing the consumer's eligibility for...credit or...household purposes...or any other
 4 purpose authorized under section 1681b of this title." (15 U.S.C. §1681a(d)).

5 24. For purposes of the ICRAA, Defendant TSP is an "investigative consumer reporting
 6 agency" as defined under Cal. Civ. C. §1786.2(d) because it is a "person who, for monetary fees
 7 or dues, engages in whole or in part in the practice of collecting, assembling, evaluating,
 8 compiling, reporting, transmitting, transferring, or communicating information concerning
 9 consumers for the purposes of furnishing investigative consumer reports to third parties..."

10 25. An investigative consumer report is "a consumer report in which information on a
 11 consumer's character, general reputation, personal characteristics, or mode of living is obtained
 12 through any means [except] a consumer report or other compilation of information that is limited
 13 to specific factual information relating to a consumer's credit record or manner of obtaining
 14 credit obtained directly from a creditor of the consumer or from a consumer reporting agency
 15 when that information was obtained directly from a potential or existing creditor of the consumer
 16 or from the consumer..." (Cal. Civ. C. §1786.2(d)).

17 26. Defendant TSP's reports, including the background check report at issue in the present
 18 case, contain background information on consumer regarding their general reputation, character,
 19 mode of living or other personal characteristics. Among other things, Defendant TSP's reports
 20 typically include information regarding criminal histories.

21 27. Defendant TSP sells background check reports to, among others, prospective landlords.

22 28. Plaintiff is ignorant of the Defendants sued herein as DOES 1-10, inclusive, and therefore
 23 sues those Defendants by such capacities when such information is ascertained.

24 29. Plaintiff is informed and believes and thereon alleges that each of the Doe Defendants is
 25 responsible in some manner for the occurrences herein alleged and that Plaintiff's damages as
 26 herein alleged were proximately caused by such occurrences.

27 30. Plaintiff is informed and believes and thereon alleges that, at all times herein mentioned,
 28 Defendants DOES 1-10, were agents of each other and of the named Defendant and in doing the
 29 things alleged in this complaint, were acting in the scope of such agency and with the permission
 30 and consent of Defendants.

31 VENUE

1
2 31. Venue and jurisdiction are proper in this court pursuant to California code of Civil
3 Procedure Sections 395 and 395.5. Defendant's principal place of business is in Los Angeles
4 County, California.

5
6 **GENERAL ALLEGATIONS**

7
8 32. Plaintiff hereby incorporates by reference the allegation of paragraphs 1-30, inclusive.

9 33. On or about February 5, 2010, Plaintiff applied for housing with the subject affordable
10 housing development project named MAPLE SQUARE owned and operated by AFFIRMED
11 HOUSING GROUP (hereafter collectively as "MAPLE SQUARE").

12 34. Plaintiff is informed and believes that MAPLE SQUARE, as part of the application
13 assessment process, requested that Defendant TSP furnish a consumer report within the meaning
14 of 15 U.S.C. §1681a(d) and/or an investigative consumer report as defined in Civ. Code
15 §1786.2(c) on Plaintiff (collectively as "background check report").

16 35. On or about February 5, 2010, Defendant TSP furnished a background check report on
17 Plaintiff to MAPLE SQUARE (hereafter as "the subject report"). The subject report is attached
18 as Exhibit "1" to this Complaint.

19 36. Defendant's report contains information on Case No. 188935 relating to a May 16, 2000
20 arrest for "under the influence of a controlled substance." Plaintiff was never convicted of this
21 crime.

22 37. Both the FCRA and the ICRAA prohibit the reporting of this case because it is outdated,
23 obsolete, and irrelevant.

24 38. Under the FCRA, 15 U.S.C. §1681c(a)(2), and (5), any adverse item of information
25 including records of arrest that are older than seven years cannot be reported. Under the ICRAA,
26 Cal. Civ. C. §1786.18(a)(7) and (8) any records of arrest that did not result cannot be reported
27 regardless of its age.

28 39. Defendant clearly disclosed the arrest date as May 16, 2000 which is more than 7 years
29 from the date of the report violating the FCRA. Moreover, because the arrest also did not result
30 in conviction, the disclosure of which also violates the ICRAA.

31 40. Moreover, due to its age, Alameda County Superior Court – Fremont Hall of Justice had
32 long purged and destroyed the court records relating to this case. Plaintiff is informed and

1 believes that the records were purged and/or destroyed prior to the date of the issuance of the
2 subject report.

3 41. Under both the FCRA (15 U.S.C. §1681e(b)) and the ICRAA (Cal. Civ. C. §1786.20(b)),
4 a background check company "shall follow *reasonable procedures to assure maximum possible*
5 *accuracy of the information* concerning the individual about whom the report relates." (The
6 statutory language is identical under both the FCRA, and the ICRAA).

7 42. Further under the ICRAA, Cal. Civ. C. §1786.18(c), a background check company such
8 as Defendant TSP must verify the accuracy of the information during the 30-day period ending
9 on the date on which the report is furnished. Under Cal. Civ. C. §1786.24(e), if the accuracy of
10 the information cannot be verified, the background company must "*promptly delete that*
11 *information...*"

12 43. The FCRA also has a similar requirement under 15 U.S.C. §1681i(a)(3)(A) where
13 unverifiable information cannot be reported and must be promptly deleted when disputed.

14 44. In clear violation of the above-described statutes, Defendant TSP did not and does not
15 use reasonable procedures to assure the maximum possible accuracy of the information reported.
16 Defendant TSP reported and routinely reports criminal history information without verification
17 of the accuracy of the reported information *prior* to its disclosure. In fact, Defendant TSP did not
18 obtain and currently does not possess any court records from the Alameda County Superior
19 Court.

20 45. Alameda County Superior Court – Fremont Hall of Justice is the original source of the
21 proceedings related to the subject case. Since the court has purged and/or destroyed the
22 underlying records related to this case, the parties, this Court, as well as the recipient of the
23 subject background check report cannot verify the accuracy of the information reported and the
24 reporting of the same violates Plaintiff's rights under the FCRA and the ICRAA.

25 46. Defendant's report also contains information on Case No. 217842 where it discloses the
26 following charges that did not result in a conviction: "CT1: Burglary 2nd Degree" and "CT2:
27 Forgery."

28 47. Defendant flooded the report with dismissed criminal charges when in fact, the only
29 reportable conviction was count 3 of Case No. 217842 for petty theft of a dependent adult.

30 48. Due to the prohibited information disclosed in the subject report, MAPLE SQUARE
31 denied Plaintiff's rental application, and Plaintiff is entitled to damages pursuant to Cal. Civ.
32 Code § 1786.50(a), (b).

1 49. Subsequent to the denial of his rental application, Plaintiff sought assistance from the
 2 East Bay Community Law Center ("EBCLC"). On or about November 9, 2011, EBCLC
 3 submitted a written dispute to Defendant TSP disputing the inclusion of Case No. 188935 and
 4 the two dismissed counts in Case No. 217842 in the subject report.

5 50. Under both the FCRA (15 U.S.C. §1681i(a)(1)(A)), and the ICRAA (Cal. Civ. C.
 6 §1786.24(a)), a background check company is required to, among other obligations, conduct a
 7 full and complete investigation within 30-days of receipt of the dispute.

8 51. Defendant was well-aware of this requirement but wholly failed to abide by it. Defendant
 9 wholly failed to respond to the November 9, 2011 written dispute from EBCLC and failed to
 10 investigate the claim. To date, Plaintiff has failed to receive any response concerning the
 11 investigation relating to Plaintiff's dispute. Plaintiff is left without recourse except to initiate this
 12 civil action.

13 52. The availability of affordable housing such as those offered by MAPLE SQUARE is
 14 limited. Defendant TSP's report which contains unverifiable information; it is not maximally
 15 accurate; it is flooded with dismissed charges and it is therefore misleading negatively and
 16 substantially affected Plaintiff's ability to obtain affordable housing. Defendant TSP continues to
 17 jeopardize Plaintiff's future ability to obtain affordable housing by its failure and continue to
 18 failure to resolve Plaintiff's dispute and update its system and issue a new report to MAPLE
 19 SQUARE omitting the unverifiable, inaccurate, and misleading information as described above.

20 53. Plaintiff seeks statutory and/or actual damages from Defendant as provided under 15
 21 U.S.C. §§1681n and o and Cal. Civ. C. §1786.50.

22 23 **FIRST CAUSE OF ACTION**

24 **(Violation of the Fair Credit Reporting Act, 15 U.S.C §1681c(a))**

25
26 54. Plaintiff hereby incorporates by reference the allegations of paragraphs 1-53, inclusive.

27 55. Defendant is, and at all times herein mentioned was, a consumer reporting agency
 28 engaged in the practice of assembling and evaluating information on consumers for the purpose
 29 of furnishing investigative consumer reports to third parties for monetary fees.

30 56. Upon information and believe, Defendant furnished to a third party consumer reports
 31 pertaining to Plaintiff.
 32

1 57. Defendant's report about Plaintiff contains records of arrest and other adverse
2 information that antedate the date of the report by more than 7 years in violation of 15 U.S.C.
3 §§1681c(a)(2) and (5).

4 58. At the time the report was made, Defendant was aware of the FCRA's prohibition against
5 disclosure of the prohibited information and also aware that its report to MAPLE SQUARE
6 included such prohibited information. Statutory references to the subject prohibition were made
7 on its own website informing its customers that certain criminal records may not be reportable.
8 Defendant disregarded its own obligations and reported the prohibited information on Plaintiff's
9 investigative consumer report to MAPLE SQUARE.

10 59. Plaintiff was harmed and suffered actual damages as a direct legal, proximate, and
11 foreseeable result of Defendant's violations.

12 60. Defendant's violations were willful and/or grossly negligent because Defendant was
13 aware of its obligations under the FCRA but nonetheless consciously elected to disregard its
14 obligations.

15 16 SECOND CAUSE OF ACTION

17 (Violation of the Fair Credit Reporting Act, 15 U.S.C §1681e)

18
19 61. Plaintiff hereby incorporates by reference the allegations of paragraphs 1-53, inclusive.

20 62. Defendant is, and at all times herein mentioned was, a consumer reporting agency
21 engaged in the practice of assembling and evaluating information on consumers for the purpose
22 of furnishing investigative consumer reports to third parties for monetary fees.

23 63. Upon information and belief, Defendant also has not, and currently does not maintain
24 reasonable procedures designed to avoid violations of 15 U.S.C. §1681c of the FCRA and it is
25 accordingly in violation of 15 U.S.C. §1681e.

26 64. Upon information and belief, Defendant also does not follow reasonable procedures to
27 assure maximum possible accuracy of the information concerning the individual about whom the
28 report relates.

29 65. Defendant's violations were willful and/or grossly negligent because Defendant was
30 aware of its obligations under the FCRA but nonetheless consciously elected to disregard its
31 obligations.

THIRD CAUSE OF ACTION

(Violation of the Fair Credit Reporting Act 15 U.S.C §1681i)

66. Plaintiff hereby incorporates by reference the allegations of paragraphs 1-53, inclusive.

67. Defendant is, and at all times herein mentioned was, a consumer reporting agency engaged in the practice of assembling and evaluating information on consumers for the purpose of furnishing investigative consumer reports to third parties for monetary fees.

68. Upon information and belief, Defendant also has not, and currently does not maintain reasonable procedures to resolve consumer disputes as required under 15 U.S.C. §1681i.

69. Specifically, Defendant failed to conduct any reinvestigation as mandated under 15 U.S.C. §§1681i(a)(1)(A) and (B); failed to promptly notify any person who provided any item of information in dispute as mandated under 15 U.S.C. §§1681i(a)(2)(A) and (B); failed to provide Plaintiff with a notice of determination and/or reinvestigation as mandated under 15 U.S.C. §§1681i(a)(3) and (6); failed to promptly delete or modify inaccurate or unverifiable information as mandated by 15 U.S.C. §1681i(a)(5); failed to maintain an automated system through which furnishers of information to Defendant may report the results of a reinvestigation that finds incomplete, inaccurate, or unverifiable information; failed to provide a description of reinvestigation procedure as mandated under 15 U.S.C. §1681i(a)(7) ; failed to notify the fact of the dispute pursuant to 15 U.S.C. §1681i(c), and failed to notify the recipient of the subject report relating to the deletion of disputed information pursuant to 15 U.S.C. §1681i(d).

70. Defendant's violations were willful and/or grossly negligent because Defendant was aware of its obligations under the FCRA but nonetheless consciously elected to disregard its obligations.

FOURTH CAUSE OF ACTION

(Violation of the California Investigative Consumer Reporting Agencies Act, Cal. Civ. C. §1786.18)

71. Plaintiff hereby incorporates by reference the allegations of paragraphs 1-53, inclusive.

72. Defendant is, and at all times herein mentioned was, a consumer reporting agency engaged in the practice of assembling and evaluating information on consumers for the purpose of furnishing investigative consumer reports to third parties for monetary fees.

1 73. Upon information and believe, Defendant furnished to a third party consumer reports
2 pertaining to Plaintiff.

3 74. Defendant's report about Plaintiff contains records of arrest that did not result in
4 conviction and other adverse information that antedate the date of the report by more than 7
5 years in violation of Cal. Civ. C. §1786.18(a)(7) and (8).

6 75. At the time the report was made, Defendant was aware of the ICRAA's prohibition
7 against disclosure of the prohibited information and also aware that its report to MAPLE
8 SQUARE included such prohibited information. Statutory references to the subject prohibition
9 were made on its own website informing its customers that certain criminal records may not be
10 reportable. Defendant disregarded its own obligations and reported the prohibited information
11 on Plaintiff's investigative consumer report to MAPLE SQUARE.

12 76. Plaintiff was harmed and suffered actual damages as a direct legal, proximate, and
13 foreseeable result of Defendant's violations.

14 77. Defendant's violations were willful and/or grossly negligent because Defendant was
15 aware of its obligations under ICRAA but nonetheless consciously elected to disregard its
16 obligations.

17
18 **FIFTH CAUSE OF ACTION**

19 **(Violation of the California Investigative Consumer Reporting Agencies Act Cal. Civ.**
20 **C. §1786.20)**

21
22 78. Plaintiff hereby incorporates by reference the allegations of paragraphs 1-53, inclusive.

23 79. Defendant is, and at all times herein mentioned was, a consumer reporting agency
24 engaged in the practice of assembling and evaluating information on consumers for the purpose
25 of furnishing investigative consumer reports to third parties for monetary fees.

26 80. Upon information and belief, Defendant also has not, and currently does not maintain
27 reasonable procedures designed to avoid violations of Cal. Civ. C. §1786.18 of the ICRAA and it
28 is accordingly in violation of Cal. Civ. C. §1786.20(a).

29 81. Upon information and belief, Defendant also not follow reasonable procedures to assure
30 maximum possible accuracy of the information concerning the individual about whom the report
31 relates and it is in violation of Cal. Civ. C. §1786.20(b).
32

1 82. Defendant's violations were willful and/or grossly negligent because Defendant was
2 aware of its obligations under the ICRAA but nonetheless consciously elected to disregard its
3 obligations.

4
5 **SIXTH CAUSE OF ACTION**

6 **(Violation of the California Investigative Consumer Reporting Agencies Act Cal. Civ.**
7 **C. §1786.24)**
8

9 83. Plaintiff hereby incorporates by reference the allegations of paragraphs 1-53, inclusive.

10 84. Defendant is, and at all times herein mentioned was, an investigative consumer reporting
11 agency engaged in the practice of assembling and evaluating information on consumers for the
12 purpose of furnishing investigative consumer reports to third parties for monetary fees.

13 85. Upon information and belief, Defendant also has not, and currently does not maintain
14 reasonable procedures to resolve consumer disputes as required under Cal. Civ. C. §1786.24.

15 86. Specifically, Defendant failed to conduct any reinvestigation as mandated under Cal. Civ.
16 C. §1786.24(a); failed to promptly notify any person who provided any item of information in
17 dispute as mandated under Cal. Civ. C. §1786.24(b); failed to provide Plaintiff with a notice of
18 determination and/or reinvestigation as mandated under Cal. Civ. C. §§1786.24(d) and (g); failed
19 to promptly delete or modify inaccurate or unverifiable information as mandated by Cal. Civ. C.
20 §1786.24(e); failed to maintain an automated system through which furnishers of information to
21 Defendant may report the results of a reinvestigation that finds incomplete, inaccurate, or
22 unverifiable information as mandated by Cal. Civ. C. §1786.24(n); failed to provide a description
23 of reinvestigation procedure as mandated under Cal. Civ. C. §1786.24(g) ; failed to notify the
24 fact of the dispute pursuant to Cal. Civ. C. §1786.24(j) , and failed to notify the recipient of the
25 subject report relating to the deletion of disputed information pursuant to Cal. Civ. C.
26 §1786.24(k).

27 87. Defendant's violations were willful and/or grossly negligent because Defendant was
28 aware of its obligations under the ICRAA but nonetheless consciously elected to disregard its
29 obligations.

30 //

31 //

32 //

1 **SEVENTH CAUSE OF ACTION**

2 **(Violation of the California Investigative Consumer Reporting Agencies Act Cal. Civ.**
3 **C. §1786.12(e))**

4
5 88. Plaintiff hereby incorporates by reference the allegations of paragraphs 1-50, inclusive.

6 89. Defendant is, and at all times herein mentioned was, an investigative consumer reporting
7 agency engaged in the practice of assembling and evaluating information on consumers for the
8 purpose of furnishing investigative consumer reports to third parties for monetary fees.

9 90. Upon information and belief, Defendant also has not, and currently does not obtain the
10 proper certification under Cal. Civ. C. §1786.12(e) prior to issuing an investigative consumer
11 report.

12 91. Defendant's violations were willful and/or grossly negligent because Defendant was
13 aware of its obligations under the ICRAA but nonetheless consciously elected to disregard its
14 obligations.

15
16 **EIGHTH CAUSE OF ACTION**

17 **(Violation of the California Investigative Consumer Reporting Agencies Act Cal. Civ.**
18 **C. §1786.28)**

19
20 92. Plaintiff hereby incorporates by reference the allegations of paragraphs 1-53, inclusive.

21 93. Defendant is, and at all times herein mentioned was, a consumer reporting agency
22 engaged in the practice of assembling and evaluating information on consumers for the purpose
23 of furnishing investigative consumer reports to third parties for monetary fees.

24 94. Upon information and belief, Defendant also has not, and currently does not disclose the
25 source from which the consumer information was obtained including the *particular court* and
26 the date that the information was initially reported or publicized.

27 95. Defendant's violations were willful and/or grossly negligent because Defendant was
28 aware of its obligations under the ICRAA but nonetheless consciously elected to disregard its
29 obligations.

30 //

31 //

32 //

NINTH CAUSE OF ACTION

**(Violation of the California Investigative Consumer Reporting Agencies Act Cal. Civ.
C. §1786.29)**

96. Plaintiff hereby incorporates by reference the allegations of paragraphs 1-50, inclusive.

97. Defendant is, and at all times herein mentioned was, a consumer reporting agency engaged in the practice of assembling and evaluating information on consumers for the purpose of furnishing investigative consumer reports to third parties for monetary fees.

98. Upon information and belief, Defendant also has not, and currently does not provide the following notices on the first page of an investigative consumer report including the subject report:

- a. A notice in at least 12-point boldface type setting forth that the report does not guarantee the accuracy or truthfulness of the information as to the subject of the investigation, but only that it is accurately copied from public records, and information generated as a result of identity theft, including evidence of criminal activity may be inaccurately associated with the consumer who is the subject of the report.
- b. An investigative consumer reporting agency shall provide a consumer seeking to obtain a copy of a report or making a request to review a file, a written notice in simple, plain English and Spanish setting forth the terms and conditions of his or her right to receive all disclosures, as provided in Section 1786.26.

99. Defendant's violations were willful and/or grossly negligent because Defendant was aware of its obligations under the ICRAA but nonetheless consciously elected to disregard its obligations.

TENTH CAUSE OF ACTION

(Violation of California B&P §17200 *et seq.*)

100. Plaintiffs hereby incorporates by reference the allegations of paragraphs 1 - 53, inclusive.

101. Defendant is, and all times herein mentioned was, an investigative consumer reporting agency engaged in the business and practice of assembling and evaluating information

1 on consumers for the purpose of furnishing investigative consumer reports to third parties for
2 monetary fees.

3 102. California Business and Professions Code §17200 *et seq.* prohibits acts of unfair
4 competition, which mean and include any "unlawful...business act or practice."

5 103. As more fully described above, the acts and practices alleged herein are unlawful
6 as they violate numerous statutory provisions, as previously alleged.

7 104. The acts and practices engaged in by Defendant and alleged herein harmed
8 Plaintiffs and, on information and belief, have harmed other California consumers. On
9 information and belief, Defendant's conduct is ongoing and continues to this date.

10 105. Plaintiffs allege that Defendant's misconduct, as alleged herein, gave, and
11 continues to give Defendant an unfair competitive advantage.

12 106. As a direct and proximate result of Defendant's aforementioned acts, Defendant
13 has prospered and benefitted from the sales of its non-compliant screening reports, and has been
14 unjustly enriched by providing non-compliant reports on Plaintiffs and on other consumers and
15 should be required to disgorge its illicit profits and/or be enjoined from continuing such practices
16 under California Business & Professions Code §17200 and related sections.

17 18 **ELEVENTH CAUSE OF ACTION**

19 **(Violation of California B&P Code §17200 *et seq.*)**

20
21 107. Plaintiffs hereby incorporates by reference the allegations of paragraphs 1 - 53,
22 inclusive.

23 108. California Business and Professions Code §17200, *et seq.* prohibits acts of unfair
24 competition, which mean and include any "unfair...business act or practice."

25 109. As more fully described above, Defendant's acts and practices constitute unfair
26 business acts or practices within the meaning of Business and Professions Code §17200, *et seq.*
27 in that the justification for Defendant's conduct, if any, is outweighed by the harm to the general
28 public. Such conduct is also contrary to public policy, immoral, unethical, oppressive,
29 unscrupulous and/or substantially injurious to consumers. On information and belief,
30 Defendant's unfair conduct is ongoing and continues to this date.

110. The acts and practices engaged in by Defendant and alleged herein harmed Plaintiffs and, on information and belief, have harmed other California consumers. On information and belief, Defendant's conduct is ongoing and continues to this date.

111. Plaintiffs allege that Defendant's misconduct, as alleged herein, gave, and continues to give Defendant an unfair competitive advantage.

112. As a direct and proximate result of Defendant's aforementioned acts, Defendant has prospered and benefited from the sales of its non-compliant reports, and has been unjustly enriched by providing of non-compliant screening reports on Plaintiffs and on other consumers and should be required to disgorge illicit and/or enjoined from continuing such practices under California Business & Professions Code §17200 and related sections.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendant, and each of them, as follows:

1. For a declaration that Defendant's practices violate the FCRA, and the ICRAA;
2. For compensatory, special, general and punitive damages according to proof against all Defendants;
3. For interest upon such damages as permitted by law;
4. For an award of reasonable attorney's fees provided by law under all applicable statutes;
5. For the costs of suit;
6. For such other orders of the Court and further relief as the Court deems just and proper.

DATED: June 6, 2012

DEVIN H. FOK ESQ.
THE LAW OFFICES OF DEVIN H. FOK

By: _____

Devin H. Fok

Attorneys for Plaintiff GABRIEL F. MORAN

DEMAND FOR JURY TRIAL

Plaintiff hereby request and demand a jury trial on all issues triable by jury.

DATED: June 6, 2012

DEVIN H. FOK ESQ.
THE LAW OFFICES OF DEVIN H. FOK

By: 

Devin H. Fok

Attorneys for Plaintiff GABRIEL F. MORAN

PROOF OF SERVICE

I, the undersigned, declare that I am a citizen of the United States and work in the City of Los Angeles, County of Los Angeles, that I am over the age of eighteen (18) years and not a party to the within cause; that my business address is 958 E. 108th St., Los Angeles, CA 90059, and that on the date set out below I served a true copy of the attached:

• **PLAINTIFF'S FIRST AMENDED COMPLAINT FOR DAMAGES**

On the following parties at the addresses set for the below:

Verifications, Inc. c/o Jacobson, Russell, Saltz & Fingerman LLP
ATTN: Michael J. Saltz, Esq.
10866 Wilshire Blvd., Ste. 1550
Los Angeles, CA 90024
Phone: (310) 446-9900; Fax: (310) 446-9909

By the following method:

 X (BY REGULAR MAIL) I caused such envelopes to be delivered to the office(s) thereon fully prepaid to be placed in the U.S. mail at Los Angeles, California.

 (BY PERSONAL DELIVERY) I caused such envelope(s) to be delivered by hand to the office(s) of the addressee(s).

 (BY FACSIMILE) I caused such copies to be sent with same day service.

I declare under penalty of perjury that the above statements are true and correct. This statement is executed in Los Angeles, California on June 6, 2012


Devin Fok

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

This case has been assigned to District Judge Stephen V. Wilson and the assigned discovery Magistrate Judge is Alicia G. Rosenberg.

The case number on all documents filed with the Court should read as follows:

CV12- 5808 SVW (AGR~~x~~)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

=====

NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

☒ **Western Division**
312 N. Spring St., Rm. G-8
Los Angeles, CA 90012

☐ **Southern Division**
411 West Fourth St., Rm. 1-053
Santa Ana, CA 92701-4516

☐ **Eastern Division**
3470 Twelfth St., Rm. 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**

I (a) PLAINTIFFS (Check box if you are representing yourself <input type="checkbox"/>) <p align="center">GABRIEL FELIX MORAN</p>		DEFENDANTS <p align="center">THE SCREENING PROS, LLC</p>	
(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.) <div style="display: flex; justify-content: space-between;"> <div style="width: 48%;"> Devin H. Fok Law Office of Devin H. Fok P.O. Box 7165, Alhambra, CA </div> <div style="width: 48%;"> Joshua E. Kim A New Way Of Life Reentry Project P.O. Box 875288, Los Angeles, CA </div> </div>		Attorneys (If Known) Michael J. Saltz, Esq. (SBN 189751), Colby A. Petersen, Esq. (SBN 274387) Jacobson, Russell, Saltz & Fingerman, LLP 10866 Wilshire Blvd., Suite 1550 Los Angeles, CA 90024; Tel. 310-446-9900.	

II. BASIS OF JURISDICTION (Place an X in one box only.) <input type="checkbox"/> 1 U.S. Government Plaintiff <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only (Place an X in one box for plaintiff and one for defendant.) <table style="width:100%; border: none;"> <tr> <td style="width:35%;">Citizen of This State</td> <td style="width:10%;">PTF <input type="checkbox"/> 1</td> <td style="width:10%;">DEF <input type="checkbox"/> 1</td> <td style="width:35%;">Incorporated or Principal Place of Business in this State</td> <td style="width:10%;">PTF <input type="checkbox"/> 4</td> <td style="width:10%;">DEF <input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td>PTF <input type="checkbox"/> 2</td> <td>DEF <input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td>PTF <input type="checkbox"/> 5</td> <td>DEF <input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td>PTF <input type="checkbox"/> 3</td> <td>DEF <input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td>PTF <input type="checkbox"/> 6</td> <td>DEF <input type="checkbox"/> 6</td> </tr> </table>	Citizen of This State	PTF <input type="checkbox"/> 1	DEF <input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	PTF <input type="checkbox"/> 4	DEF <input type="checkbox"/> 4	Citizen of Another State	PTF <input type="checkbox"/> 2	DEF <input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	PTF <input type="checkbox"/> 5	DEF <input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	PTF <input type="checkbox"/> 3	DEF <input type="checkbox"/> 3	Foreign Nation	PTF <input type="checkbox"/> 6	DEF <input type="checkbox"/> 6
Citizen of This State	PTF <input type="checkbox"/> 1	DEF <input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	PTF <input type="checkbox"/> 4	DEF <input type="checkbox"/> 4														
Citizen of Another State	PTF <input type="checkbox"/> 2	DEF <input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	PTF <input type="checkbox"/> 5	DEF <input type="checkbox"/> 5														
Citizen or Subject of a Foreign Country	PTF <input type="checkbox"/> 3	DEF <input type="checkbox"/> 3	Foreign Nation	PTF <input type="checkbox"/> 6	DEF <input type="checkbox"/> 6														

IV. ORIGIN (Place an X in one box only.)

☐ 1 Original Proceeding
☒ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from another district (specify): _____
☐ 6 Multi-District Litigation
☐ 7 Appeal to District Judge from Magistrate Judge

V. REQUESTED IN COMPLAINT: JURY DEMAND: ☒ Yes ☐ No (Check 'Yes' only if demanded in complaint.)

CLASS ACTION under F.R.C.P. 23: ☐ Yes ☒ No MONEY DEMANDED IN COMPLAINT: \$ _____

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)
This case is removable as Plaintiff has claimed causes of action under Federal statutes 15 USC 1681(c) and (e), and 15 USC 1681(a), the Fair Credit Reporting Act.

VII. NATURE OF SUIT (Place an X in one box only.)

OTHER STATUTES <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input checked="" type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	CONTRACT <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	TORTS PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	TORTS PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment <input type="checkbox"/> 446 American with Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition FORFEITURE/PENALTY <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety /Health <input type="checkbox"/> 690 Other	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609
--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

CV12-05808

FOR OFFICE USE ONLY: Case Number: _____

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**

VIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? ☒ No ☐ Yes
If yes, list case number(s): _____

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? ☒ No ☐ Yes
If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply) ☐ A. Arise from the same or closely related transactions, happenings, or events; or
☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or
☐ C. For other reasons would entail substantial duplication of labor if heard by different judges; or
☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)

(a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named plaintiff resides.
☐ Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
	Plaintiff Gabriel Felix Moran

(b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named defendant resides.
☐ Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).


County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Defendant The Screening Pros, LLC	

(c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH claim arose.
Note: In land condemnation cases, use the location of the tract of land involved.

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
All claims arose in Los Angeles County	

* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

Note: In land condemnation cases, use the location of the tract of land involved

X. SIGNATURE OF ATTORNEY (OR PRO PER):  Date 7/5/2012

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))